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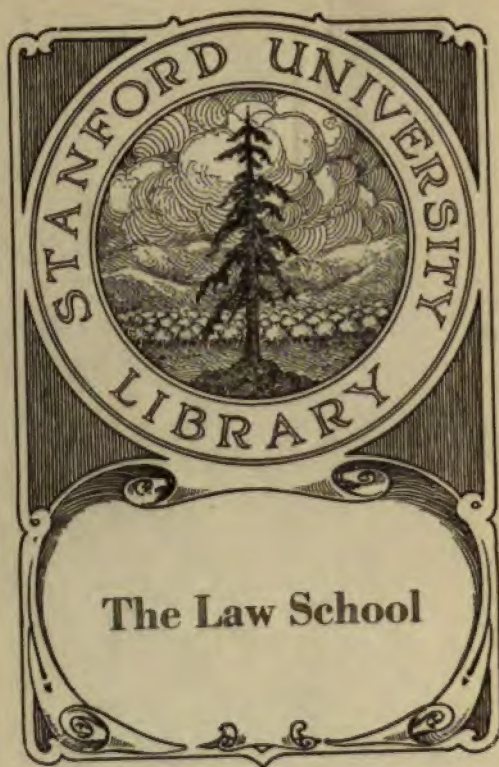
TWENTY-SEVENTH ANNUAL MEETING

THE MICHIGAN STATE BAR  
ASSOCIATION

REPORTS OF COMMITTEES  
LIST OF OFFICERS  
MEMBERS, ETC.

1917

GRAND RAPIDS, MICHIGAN  
June 29 and 30, 1917



**PROCEEDINGS**  
**OF THE**  
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## PROCEEDINGS



PROCEEDINGS OF THE TWENTY-SEVENTH  
ANNUAL MEETING  
OF  
THE MICHIGAN STATE BAR ASSOCIATION  
GRAND RAPIDS, MICHIGAN

Friday and Saturday, June 29th and 30th, 1917.

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FRIDAY MORNING.

The meeting was called to order by President Burritt Hamilton.

**THE PRESIDENT:** Gentlemen of the Michigan State Bar Association: I am pleased to say that Grand Rapids with her usual courtesy desires to bid you welcome, and as the bearer of this message has chosen the Honorable Willard F. Keeney, President of the Grand Rapids Bar Association, who will speak to you. Mr. Keeney.

**MR. KEENEY:** Mr. President, and gentlemen of the Michigan State Bar Association: In behalf of the Grand Rapids Bar Association there falls to me the very agreeable duty of welcoming here today the members of the Michigan State Bar Association. The members of the Grand Rapids Bar recall with much pleasure several meetings of the members of the Michigan State Bar Association with which we have been honored in the past; and we are very glad at the present time to have the opportunity of attending with you another meet-

ing of like character. We sincerely trust that this meeting will be as interesting in character and as productive of results as some of the meetings that have been held here in the past. I know that you are here for a serious purpose, and hence I will not delay you by any extended remarks of my own. I merely wish to say that in behalf of the members of the Grand Rapids Bar we bid you a most cordial welcome. We believe that we have here a community active and efficient as an industrial community, and we are proud also to think that we have in Grand Rapids one of the beautiful residential cities of the United States. We trust that while you are here with us we shall be able to show you our city, and that it will be possible for us to mingle freely with you in a social way; and in the moments of relaxation, which we trust will come in the deliberations of this Association, we hope that it will be our pleasure to meet you often. I will say nothing further, gentlemen, save that the gates of the city are thrown wide open to you, and that we bid you a most cordial welcome.

THE PRESIDENT: I am sure it is the desire of the members present that we acknowledge with gratitude the kind words of the President of the Bar Association of Grand Rapids; and in addition to that acknowledgment I wish to say now that the State Association is very grateful and thankful indeed that the influence of the bar of Grand Rapids with the federal authorities, and with the federal government is so great that it has been able to provide for us this beautiful place of meeting. I think that this place with its historic traditions and memories will add materially to the enjoyment of this occasion, and I feel that this fact should be mentioned together with our acknowledgments.

(The President's Address was thereupon read.)

(See Appendix for President's Address.)

We will now pass to the regular order of business, gentlemen, the more profitable order I hope. First will be the report of the Secretary, Mr. Silsbee.

(Report of Secretary read.)

(See Appendix for report of Secretary.)

**THE PRESIDENT:** Gentlemen, you have heard the report of the Secretary, what is your pleasure?

**A MEMBER:** I move that the report be accepted. Seconded, and carried.

The next will be the report of the Treasurer.

(Report of Treasurer read.)

(See Appendix for report of Treasurer.)

**THE PRESIDENT:** I think before this report is passed upon an Auditing Committee, under the rules, should be appointed to act upon it. I will appoint as such Auditing Committee, Mr. William J. Landman of Grand Rapids, Mr. Walter S. Foster of Lansing, and Mr. Bert D. Chandler of Hudson, and I will request that the committee be prepared to report tomorrow morning.

While it may be a little out of the regular order, I think that it would be the wish of the members that appropriate resolutions be adopted concerning the late Justice Person, and I suggest it at this time so that sufficient opportunity to prepare the resolutions may be had by the committee; and as bearing upon that I wish to say that the purpose of ex-Governor Ferris, who is to be here tomorrow morning, is to pay a tribute to his friend, appointee, and trusted advisor—Judge Person, and it seems to me that these resolutions, if you in your judgment think resolutions should be presented, should come in tomorrow morning so that they may either follow or precede the address of Governor Ferris. The Chair will entertain a motion on that subject.

**MR. BROWN:** Mr. President, I move that such a committee be appointed. Seconded.

**THE PRESIDENT:** How many members?

**MR. BROWN:** In the discretion of the President:

**THE PRESIDENT:** It is moved and seconded that a committee be appointed to prepare resolutions concerning the late Justice Person. Are there any remarks? So many as favor the motion please say aye. Opposed if any. It is unanimous. I will appoint on that committee, Judge Loyal E. Knappen, Judge Arthur C. Denison, and Judge Grant Fellows.

Next in order is the report of the Committee on Legislation and Law Reform. The Chair is pleased to recognize Mr. Potter of Hastings, the Chairman of that committee.

(Mr. Potter thereupon read his report.)

(See Appendix for report of Committee on Legislation and Law Reform.)

**THE PRESIDENT:** Gentlemen, you have heard the report, and it is now before you for discussion. Does the Chair hear a motion for the adoption of the report?

**MR. CARNEY:** I move that the report be accepted and adopted. Which motion was duly seconded.

**THE PRESIDENT:** A motion is made and seconded that the report be accepted and adopted. Are there any remarks?

**MR. SLOMAN:** Mr. President.

**THE PRESIDENT:** Mr. Sloman.

**MR. SLOMAN:** I thought the recommendations that were contained in the report might be taken up under the general order of business rather than at this time, and the various matters there referred to dealt with, so as not to embarrass whatever attitude the Association might take in regard to the recommendations contained in the report, and I move that

the matter be held open until after the general order of business is taken up.

THE PRESIDENT: I think, Mr. Sloman, that the motion you seek to make would be to lay upon the table, because it is in the general order of business now.

MR. SLOMAN: Then I withdraw the motion, if it is on the general order.

THE PRESIDENT: A motion to lay on the table would be in order.

MR. SLOMAN: I do not wish to do that.

THE PRESIDENT: Gentlemen, you have heard the motion, which is that the report be accepted and adopted. Are there any further remarks?

MR. SLOMAN: Do I understand in moving the adoption of that report that the Association adopts all the recommendations contained in it?

THE PRESIDENT: That is my understanding.

MR. SLOMAN: Adopts the sentiments of the report.

THE PRESIDENT: It becomes the word of the Association when we adopt it.

MR. MAYNARD: It was a refreshing document; it sounded like a blast from the North on a hot summer day, and it certainly is supremely important to the profession, but I believe there are possibly some elements of the report that we might like to consider, and therefore I move as an amendment that it be not accepted for the time being, so that it may later be called up for discussion. This is a very important report.

**THE PRESIDENT:** The Chair will be obliged to hold that the only way you can defer discussion of this report will be to place it on the table. You can take it off the table at any time you wish.

**MR. MAYNARD:** I move that for the time being it lie on the table. Which motion was duly seconded and prevailed.

This brings us to the report of the Committee on Grievances, Mr. Carney, Chairman. (Mr. Carney here read the report.)

(See Appendix for report of Grievance Committee.)

**MR. CARNEY:** I move that the report be adopted. Which motion was duly seconded and adopted.

**THE PRESIDENT:** I will call on the Chairman of the Local Bar Association Committee, Mr. Jacobs, for the general report.

**MR. JACOBS:** Mr. President.

**THE PRESIDENT:** Mr. Jacobs.

(Mr. Jacobs thereupon read his report.)

(See Appendix for report of Committee on Local Bar Associations.)

I will now call for the report of the Committee on Membership, of which Mr. Main is chairman.

**MR. SLOMAN:** Mr. President, before Mr. Main makes his report may I be permitted to supplement in a few words my appreciation of the splendid work that has been done by the President during the past year as shown by the various reports that have been presented here. I think the records of the Association will show that the matter of organizing the different bar associations throughout the state has been one

that has been very dear to me, and I have repeatedly at the annual meetings of the Bar Association presented and succeeded in some instances in having adopted a resolution along that line. The success of the effort can only be made possible by such work as President Hamilton has done this year. There is nothing like personal work, and there is nothing like making the members of the Bar Association feel that they are needed in the work of building up the State Association and making it a force in the community, and I am hoping that the succeeding President will work along the same line and with the same hearty interest that has been manifested by your present President in getting this organization in line and getting it to work.

I am still more hopeful of attaining another result from this work, and that is that the time will come, and that it may not be far distant, when the Bar Associations of the State will have a large voice in the selection of timber for the bench, and that their choice and their selection will be recognized by the different communities as one deserving of credit. We have it in the City of Detroit. The Bar Association there votes upon those who are best fitted to sit upon the bench, and I have yet to see the instance where the citizens of Detroit have not accepted the selection of the Bar of Detroit for members of their local bench, and it is my one hope—I don't know how many years I may yet be spared to attend the meetings of this Association—it is my hope that I shall be privileged to come here until such time as the State Bar Association will have become a great factor in the selection of judicial timber for the Supreme Court.

**MR. MAYNARD:** Endorsing all that Mr. Sloman has said, and also carrying out the principle, now, I think I will move you, Mr. Secretary, that we have a rising vote of thanks of the members here representing the State Bar Association to President Hamilton for the splendid work he has done. Which motion was duly supported.

**THE SECRETARY:** Gentlemen, you have heard the motion

of Mr. Maynard that a rising vote of thanks be extended to President Hamilton by this Association for the splendid work done by him in the organization, in procuring new members, and the general upbuilding of the Association. And in that connection I want to say, as Secretary of the Association, that Mr. Hamilton has done a wonderful work for the past year. No one but myself knows the energy that has been put forth by him in the work of the Association, and I for one believe he is entitled to the thanks of its members. Now gentlemen, are you ready for the question?

A MEMBER: Question.

THE SECRETARY: All in favor of the motion of Mr. Maynard please rise. The motion is by a rising vote adopted unanimously.

THE PRESIDENT: Gentlemen, I can say no more than that I thank you. I believe if there has been anything done that merited such a generous recognition on your part—and of that I am in doubt—it has been done because I felt it should be done; because I saw great material here going absolutely to waste; because I saw a great opportunity that had not been mastered and made effective as a means of getting somewhere.

Next in order is the report of the Historical Committee, Mr. Main.

MR. MAIN: I have a paper which has been prepared by Joseph L. Hooper of Battle Creek. He being unable to be present has asked me to read a memorial to Joseph H. Choate.

(See Appendix for report of Historical Committee.)

THE PRESIDENT: If there be no objection this report will be adopted as read and will be spread upon the records. It is so ordered.

We will now listen to the report of the Committee on Membership.

MR. MAIN: Mr. President.

THE PRESIDENT: Mr. Main.

MR. MAIN: The Committee on Membership would make the following report.

(See List of Members for report of Committee.)

THE PRESIDENT: If there be no objection this report will be considered adopted as read. The Chair hears no objection. It will be considered adopted.

The election of officers will occur tomorrow morning. There is a custom which has been followed generally, namely, the appointment of a Nominating Committee. What do you wish to do about this matter?

MR. SLOMAN: I move that the usual Nominating Committee be appointed by the President. Which motion was duly seconded.

THE PRESIDENT: It is moved and seconded that a Nominating Committee of three members be appointed by the Chair. Are there any remarks?

MR. SLOMAN: I don't know whether it will meet with your approval, but I feel very keenly on the subject I am about to present. The work that has been done during the past year has been so exceptional in bringing this Association up to a high standard, that I feel like breaking an old-time precedent in connection with the appointment of the Nominating Committee, and I would ask all the members of the bar that this fine work that has been done during the past year be at least perpetuated for another year, until we have at least a solid foundation, and that the Nominating Committee report

the name of our present President as the President for the coming year. (Applause.)

**THE PRESIDENT:** If I had known, Mr. Sloman, what you proposed, I fear I would have taken advantage of my position and ruled that the remarks were not germane to the question. Gentlemen, you have heard the motion, which is that the Chair appoint a Nominating Committee of three members. Are there any further remarks?

**MR. MAYNARD:** Mr. President, again seconding the thought of Brother Sloman, I move you, Mr. Secretary, that the rules be suspended, that we anticipate the order of business and ignore this idle ceremony of a committee that would merely carry out the suggestion, and I move that the present officers of the Association be unanimously re-elected for another year. Which motion was duly seconded.

**THE SECRETARY:** That cannot be done as to the Vice-President. The President has a communication from the present Vice-President, whose work is such that he does not want his name to be considered in connection with the Presidency.

**MR. MAYNARD:** Then the only vacancy will be the office of Vice-President.

**THE SECRETARY:** Yes, sir.

**MR. MAYNARD:** I move that George Clapperton, of Grand Rapids, be chosen as Vice-President. Which motion was duly supported.

**THE PRESIDENT:** I regret, gentlemen, to make any ruling. I suppose I am disqualified if my friend Potter's proposed amendment becomes effective, and I might be committing a felony; but the order of business is a fixed matter, and the election of officers must come up in regular order, and should, for this reason, that there may be members who would be

here at that time for the purpose of participating in that very function of the organization, and who are not here now because they have not been warned that it might be brought up at this time. Hence I shall be constrained to hold that the motion is out of order, and to proceed to invite further remarks on the original motion.

MR. SLOMAN: It seems to me, Mr. President, that my motion is hardly out of order, because it is only a recommendation to the Nominating Committee to submit the name of Mr. Hamilton as the incoming President for the following year. Recommendations of that kind are perfectly proper. Nominations have been made from the floor in times past, and they have been considered by the Nominating Committee, so even though the Nominating Committee performed its usual function, at the same time the voice of this Association in the consideration of this name and its report thereon ought to be of some importance.

THE PRESIDENT: I was addressing myself to Mr. Maynard's amendment.

MR. ELLIS: I think we ought to appoint a Nominating Committee, and then afterwards instruct the committee.

THE PRESIDENT: I don't care how you do what you desire to do, but I wish to have every man register by vote his desires and his convictions. I am not a candidate.

MR. SLOMAN: Mr. President, I rise to a point of order. There is a motion before the house for the appointment of a committee, and that they report with recommendation.

THE PRESIDENT: The point is well taken. Are there any further remarks upon the motion? If not, as many as favor the motion will say aye. Opposed, if any, no. The motion prevails. The Chair will appoint the committee after the noon recess.

- I understand that Judge Stevens has a proposition which he desires to present at this time.

**JUDGE STEVENS:** Mr. President, the suggestion I am about to make, I do not know whether it will meet with the approval of the members of this Association or not. You remember three or four years ago a commission was appointed by the Governor to revise and consolidate the laws with reference to civil practice and procedure, also the laws with reference to corporations and domestic relations. I happened to be a member of that commission which presented to the Governor proposed laws upon the question of practice and procedure, and domestic relations. The recommendation of the Committee to the Governor with reference to the Judicature Act, or the revision and consolidation of laws pertaining to practice and procedure, was adopted by the Legislature substantially as reported.

The other proposition, domestic relations, marriage and divorce, husband and wife, parent and child, master and servant, etc., was reported on and submitted by the Governor to the Legislature, went to the Senate and was reported favorably, but no farther action was had in the matter. That perhaps was attributable to the fact that the members of the Legislature by reason of receiving a salary instead of a per diem, desire to get through quicker with their work. What I wanted to bring to the attention of the Association is this: I think by a little reflection there is not a member of this Association but that will understand and know, and believe that domestic relations are the very foundation of society. You also understand and know that the State of Michigan has laws pertaining to marriage and divorce which are absolutely ineffective, and that the marriage and divorce business in this state has come to be a scandal, in that but little regard is paid to the domestic relations. Men and women will marry and within a few weeks a divorce bill will be filed, no defense to it—pro confesso cases; the divorce will be granted; the next day they will marry someone else, and so on and so forth, until in the state of Michigan there is today, and during the past year have

been more divorce suits commenced than in any five years preceding. In my own circuit during the last two years nearly four hundred divorce cases have been commenced, almost one-fifth as many divorce cases commenced as marriage licenses issued; and that is so in a large part of this state. Now there ought to be a revision of those laws. This committee reported, and the amendments or changes that they recommended are in print, in the hands of the Secretary of State. It may not have been the best that could have been done, but it was certainly a reform, and I think, Mr. Chairman, and gentlemen, that that question ought to be referred to our Committee on Legislation, so that they can make a recommendation to the next Legislature. The state is a party to the marriage and divorce—not a party of record, but as Judge Cooley says in the twenty-fifth Michigan, they are a party because it goes to the very welfare and perpetuity of society.

Now, Mr. Chairman, I move that those questions be referred to the Committee on Legislation to be reported at the next session of this Association, and ultimately to be submitted to the Legislature. I do not believe there is any question which affects the public welfare and society that is of the same importance as this question of domestic relations. Now of course it is opposed by the younger lawyers. It is true that in most of the circuits the older members of the bar do not have very much to do with it. When this matter was up in the Senate Committee, there were a large number of young lawyers that opposed it, because that was their principal business; but the older lawyers were in favor of it so far as heard from. One thing that we provided for was the prohibiting of marriage between black and white, absolutely prohibiting it. There came to the capital a delegation of colored people from Kalamazoo, Detroit, and other places, opposing it, saying it was a discrimination against the colored race. Of course it was no more discrimination against the colored race than the white race. But the bill was not passed; it did not get a pleasant smile in the house. I tell you it is important when anything occurs that disrupts the domestic rela-

tions. Something has to be done and ought to be done in our state. I said to the boys the other day down in my circuit that if this thing was continued we would have a county of grass widows in a little while. Gentlemen, it is important, and I move that this matter be referred to the Committee on Legislation, and that they make a report at the next session of this Association, with a draft of a bill, or some amendments or changes that will reach the desired result, ultimately to be submitted to the Legislature.

MR. LILLIE: I support that motion.

THE PRESIDENT: It is moved and seconded that the question of appropriate legislation on the subject of domestic relations be referred to the Committee on Legislation, with the recommendation that they proceed to prepare suitable bills on that subject to be submitted to the Association next year at its annual meeting. Are there any further remarks?

MR. SLOMAN: Just a word on that subject. I agree with Judge Stevens as to the evil resulting from the condition described by him. Those same evils are presented in practically every county in this state. In my own city divorces are growing so rapidly in number that I confess at times I stand aghast at what is confronting society today. The query in my mind is, are you going to accomplish the end you desire by amending our own laws? At the present time, where there are children, the Prosecutor is a party to the action, yet in the actual working out of the law it is found that the Prosecutor rarely takes any part in a divorce case where there are children. The usual course is to get his certificate as to what the disposition of the children is to be, and then the case proceeds. Now I was a member of the Uniform Divorce Congress by appointment of ex-Governor Warner, in 1906. They met at Philadelphia, and they there presented laws for adoption by the various states in the union—uniform divorce and marriage laws. It seems to me if the efforts of the State Bar

Association were directed toward securing the adoption of uniform divorce and marriage laws in the United States, we would accomplish a great deal more than if we were simply to amend our own laws, because it is only by federal legislation that this evil can be overcome. You can't do it by an amendment of your state law. They will go somewhere else and get married where the laws are lax, and they will go somewhere else to get a divorce where the laws are lax. It is only by means of uniform legislation throughout the United States that you can cure this evil and cure it properly. Therefore I would move you, as an amendment, that it is the sense of the State Bar Association that this Association uses its best efforts toward aiding in the adoption of a uniform divorce and marriage law through an amendment giving Congress power to legislate on the subject. That I think has received the approval of the American Bar Association, and are now seeking the aid of the different Legislatures to secure the adoption of.

**THE PRESIDENT:** Does the Chair hear a second to the amendment?

**MR. CARNEY:** I support the amendment.

**THE PRESIDENT:** It is moved and seconded, as an amendment to the motion of Judge Stevens, that the Michigan State Bar Association use its best influence to procure the adoption in this state of the marriage and divorce law approved by the Committee on Legislation of the American Bar Association. Are there any remarks upon the amendment?

**JUDGE STEVENS:** Mr. Chairman, I have no objection personally to the amendment offered, but I do not think that that amendment ought to eliminate or do away with some legislation in this state. This question of uniform divorce laws has been agitated for many years, and no particular progress has been made. Canada used to be the place where people would go to marry, but they have amended their laws so that they must have a permanent residence there; it must be shown

by affidavit, and affirmative proof before they can have a license. Ohio amended its laws; Indiana amended its laws; Illinois amended its laws. Michigan has done nothing. We had a law where the court might order that the party who was found to be at fault might be prevented from marrying for two years. The Supreme Court in a case that went up from Genesee County, held that that did not amount to anything. So that part of the statute is of no avail whatever. I think in the State of Michigan we ought to look after our own welfare, but not to the exclusion of aiding in the adoption of a uniform law, but I think the State of Michigan ought to do something. We ought to do something for our own society, and our own welfare.

MR. SLOMAN: What would you do, how would you amend the State law?

JUDGE STEVENS: I will tell you how I would amend it. If you will take marriages, for instance, I want to say that a large number of the divorce cases arise out of the fact that children are born who are afflicted with loathsome diseases. There is no law in the State of Michigan that requires any evidence that a man or woman is not afflicted with some loathsome disease before being permitted to bring children into the world. There are seven thousand children in the infirmaries of this state because of marriages where either the man or woman was unclean, and it ought to be remedied, and can be remedied so far as the marriage law is concerned.

Then again with reference to the divorce laws. Today we have a statute that after a divorce bill is filed testimony may be taken within sixty days, and then a divorce may be granted. Pro confesso cases may go on the calendar to be heard in fourteen days, under the Judicature Act. The old law was, four months before testimony could be taken. Under our proposition in that law we provided this, that if the case could be heard in due time, and when the case was heard, if the court granted a decree he should make a conditional decree, but it should not become effective until some time afterwards,

six months or such a matter. If you will make some such provision as that you will find in a large percentage of the cases there will be a reconciliation. I tell you it is too speedy, too quick. While I do not believe in law's delay, yet if there is any branch of the law where delays are justifiable it is in these proceedings. I tell you it is an important question, and society is interested in it. I have no objection to this amendment if it is made as a separate motion. I think we should do all we can to secure the adoption of a uniform divorce law, but I do not think we ought to postpone action in our own state until it shall come. Therefore I am opposed to it as an amendment, but I would be glad to have it put as a separate motion.

MR. SLOMAN: At Judge Stevens' suggestion I will withdraw my amendment at this time and put it in the form of a separate motion. As there will be no report on the Judge's motion for a year, in the meantime the Association might put itself on record as favoring the adoption of a uniform divorce law.

THE PRESIDENT: Does the second consent to the withdrawal of the amendment?

MR. CARNEY: Yes.

THE PRESIDENT: Then the question is upon the original motion, which was that the question of the revision of the law of domestic relations of this state be brought to the attention of the Committee on Legislation for the purpose of obtaining a report back from them.

THE PRESIDENT: Are there any further remarks? So many as are in favor of the question please say aye. Opposed, if any, no. The motion prevails.

JUDGE PERKINS: Mr. Chairman, before we adjourn, there is just one thing I desire to say. It has come to my notice

that a proposition has been made to speed up the publication of the decisions of the Supreme Court, and also the publication of advance sheets of the decisions of the Supreme Court, and I move you that a committee of three be appointed by the Chair to investigate that subject and report at this present session of the Bar Association the matter of their findings, so that the Bar Association may take appropriate action in relation thereto. Which motion was duly seconded.

**THE PRESIDENT:** It is moved and seconded that the question of speeding up the publication of reports and advance sheets be referred to a committee for investigation.

**MR. MAYNARD:** I would like to have Judge Perkins' motion broadened to see if we can't have some of the briefs printed in the Michigan Reports. If there is anything that would be of value in the Michigan Reports, in addition to the Northwestern Reporter, it would be the briefs of counsel, so that we would not be obliged to send to Lansing every time we want to find out what they contain.

**JUDGE PERKINS:** That is another subject. The question is the speeding up of the publication of our Michigan Reports, and the receipt by members of the bar of advance sheets. The question as to the printing of the briefs is another subject.

The motion prevailed.

**MR. SLOMAN:** May I be permitted at this time, in view of having withdrawn the amendment to Judge Stevens' motion, to present a resolution that it is the sense of this meeting that we support the uniform divorce and marriage laws that have heretofore been adopted and submitted to the various legislatures for adoption, and that this Association stands ready to lend its influence to the passage of that law by the State of Michigan. Which motion was duly seconded.

**THE PRESIDENT:** You have heard the motion stated by Mr. Sloman. Are there any remarks?

MR. ELLIS: Does this Association know what that law is that has been presented? I would not want to go on record until I know what it is. It may be a good one or a bad one; we may have a better one now.

MR. SLOMAN: These laws have been framed for quite a number of years; they have been printed more or less in different publications and in some of the daily papers. They have been submitted to the American Bar Association, and they have been approved by that organization as I understand. They are the outcome or the fruits of the best minds of the country, and I apprehend, the only way you can reach this difficulty at all—and it is becoming worse and worse—is by having a uniform law. It is safe to say that what emanated from the minds of the great lawyers who drafted it, may be supposed to be of benefit throughout the United States, as a means of overcoming the evils Judge Stevens spoke about. It seems to me we ought to act if we expect to accomplish something.

JUDGE PERKINS: Just one word in regard to the uniform divorce laws. I am somewhat familiar with the proposed laws and the conference of 1906, and I desire to say to the members of the Association present that a comparison of the proposed laws of that conference with the Michigan Divorce Law will disclose the fact that it is identical with the Michigan law with one exception, and that exception is non-support. It is a remarkable coincidence that after this conference should have spent so much time in consideration of the subject of uniform divorce laws, that they should have fallen substantially upon the divorce laws of Michigan for their sample and their examples.

JUDGE PEELER: Mr. President.

THE PRESIDENT: Judge Peeler.

JUDGE PEELER: What we have is the result of the aggregate judgment of an intelligent people for a hundred years, and I

do not think we have the time or that this is the opportunity to take up a question of this kind on the spur of the moment, and instruct the people of the state as to what legislation should be passed the next time they meet. I believe that there is a disposition to legislate too much along new lines. If a larger number of lawyers would go to the Legislature, make it a point to go there, where you are paid for attending to this business, and where full discussion can be had on these questions, you might accomplish more in the interests of the bar as well as the public.

MR. HANDY: Mr. President.

THE PRESIDENT: Mr. Handy.

MR. HANDY: It has been suggested to inflict punishment upon the attorneys of this state by sending them to the Legislature. Now there is no legislative session until after the next annual meeting of this Association, and this is an important matter, this question of uniform divorce laws, and no particular good can come from speedy action. I move you that the motion of Mr. Sloman be referred to the Committee on Legislation and let them report on it at our next Annual Meeting.

MR. SLOMAN: I accept that amendment and incorporate it in my motion.

The motion as amended prevailed.

THE PRESIDENT: On the Committee for Examining into the Speeding Up of the Publication of Reports, I will appoint Judge Perkins of Grand Rapids, Fred C. Wetmore of Cadillac, and William W. Potter of Hastings.

I think, gentlemen, it has grown so late that we will not be able to take up Professor Rood's paper until the afternoon session, and a motion to adjourn will be in order.

MR. CLAPPERTON: I move that we adjourn until two o'clock.  
Which motion was duly seconded and carried.

## FRIDAY AFTERNOON.

**THE PRESIDENT:** The Convention will be in order. We will take up the regular program at this time. Our morning was so crowded that we will continue as though there had been no break in the proceedings, and I have the very distinguished pleasure of announcing that my former classmate, of the class of '91 in the University of Michigan, Professor John R. Rood, now of the University Law Faculty, will speak to us on the subject of "The Cost of Public Justice." Prof. Rood.

**PROFESSOR ROOD:** Mr. President, and members of the Michigan Bar Association: The privilege of speaking to such a distinguished and influential body as the Michigan Bar Association is too great to be refused; and while I am not unmindful of the sacrifice of the good opinion, which I am so vain as to believe I enjoy, under the circumstances—a sacrifice which must necessarily follow my disclosing to you my views on this subject—I feel that there is a public service to be performed which somebody ought to perform, and so, notwithstanding the expense to me, I am going to risk giving my frank opinion regardless of results. In Lord Macauley's Trial of Warren Hastings I read these lines: "There are few Englishmen who will not admit that English law, in spite of modern improvements, is neither so cheap nor so speedy as might be wished."

(See Appendix for Prof. Rood's Paper.)

**THE PRESIDENT:** The paper of Professor Rood is now before the Association for discussion. The Chair will be glad to recognize anyone who desires to ask questions, or to throw any light upon the subject.

**MR. CAVANAUGH:** Mr. President.

THE PRESIDENT: Mr. Cavanaugh.

MR. CAVANAUGH: I happen to be from Ann Arbor, and I desire to stand here and say to you this afternoon, so that you will all hear me too, that Prof. Rood has not investigated the amount of business that was done in Ann Arbor very thoroughly. I remember myself being interested in cases where judgments of small amounts were rendered, and these would come under what Prof. Rood refers to as "pettifogging." I remember also of being connected with one case, Mr. President, and gentlemen, a will contest, where there was one half million dollars involved, and it took some time to try it. Prof. Rood evidently overlooked that.

PROF. ROOD: I did not find it in the Journal.

MR. CAVANAUGH: I desire to call the Professor's attention, so Ann Arbor and Washtenaw County will not be misrepresented, to the fact that I was connected with another case that the Professor has forgotten to mention where there was a judgment of \$10,125, and another judgment of \$8,250, in a condemnation proceeding. Those things he has forgotten. I want to say to you that it is impossible for any man who has devoted his entire time to teaching during the year to be able to go down to the court house in Washtenaw County, and be able to come up here and give any adequate idea of what has been done there. Now he has done the best he could, and I am not finding fault with him about it, but I could not sit here and listen to his talk that Ann Arbor and Washtenaw County with its 50,000 inhabitants, and its great university, where there are supposed to be great men in the Law Department, has only done business to the amount of \$20,000 in judgments in a year. I could not sit here and permit that to stand, because it is not a fact, it is not a fact at all.

I want to say another thing in the discussion of this paper, that it has not been my experience, as the Professor says here, that the man with the money on his side wins. It has not been my experience. I have represented quite a number of people

who have a lot of money, and I have represented corporations, and I desire to say to you, and I think most of you who are lawyers have had the same experience, that it is not the man with money that wins. Justice is just as apt and more likely to go to the man who has not got the money. All of you who have practiced law know that. But if a man has not practiced law, but has been engaged in some other line of work, of course that does not come home to him so forcibly. Do you get my idea? (Laughter and applause.) Now I think every one of you who are sitting here this afternoon, who have had any experience in the practice of the law, will bear me out that the poor man in the court stands just as much, in fact a better chance of winning, than the rich man. (Applause.) Now we can have chimerical schemes on cheap justice. But how are you going to do away with the jury and have one man decide these propositions? So I say to you that when you talk about the monied man winning in a lawsuit, the practical lawyer knows that that is not so; and I, as a representative of Washtenaw County and President of our Association down there, desire to state to you men here this afternoon that Washtenaw County does business, and there are many judgments down there that the ordinary man who has devoted his time to teaching, and not the law practice, is unable to find. I thank you for this little bit of attention. (Applause.)

PROF. ROOD: I want to say one word in regard to the remarks that have been made, and that is this, that I personally examined the Journal of the Proceedings of the Circuit Court of Washtenaw County, page by page, item by item, for the whole of the year 1916, and if any such judgments as have been spoken of by our worthy townsman were rendered they do not appear upon the Journal of the Court Proceedings. That is the only information I found that was obtainable in regard to that. Of course judgments in chancery might be entered and would not appear in the Journal, but all the statements I made are true. I specify these were the items of business I found by examining the Journal, and that is literally true.

**MR. CAVANAUGH:** It is true insofar as the Professor knows, of course.

**PROF. ROOD:** I examined the Journal myself.

**THE PRESIDENT:** If there are any gentlemen present who desire to discuss the principles announced by the Professor it will be in order.

**PROF. ROOD:** I have no desire to intimate that Washtenaw County is dead; I think the contrary is true. Nor would I intimate that conditions prevail in Washtenaw County which are different from those which prevail elsewhere in the state. I think Washtenaw County is prosperous, and that justice is as well administered there as elsewhere. I simply quoted that as an illustration. And as far as men with means standing better before the court than the man without means, I did not mean to say that the courts favored the man with money. I know to the contrary; they do not. Nor did I mean to infer that Judges favored the man with money. You know and I know that they do not. What I meant was that the power that money has of enabling a man to fight, discourages the opponent without it; and I know, not from any visionary imagination at all, but from actual experiences of myself and others that cases are settled because they think it would only be a fight as long as the other party has got the money.

**THE PRESIDENT:** The evidence seems overwhelming that Washtenaw County is not dead, but, on the contrary, is very much alive, and is represented here today by at least two very live men.

**MR. VAN AMERINGEN:** I want to say that Washtenaw is represented by another live man.

**THE PRESIDENT:** Yes, sir; I said at least two.

**MR. VAN AMERINGEN:** I agree with all Mr. Cavanaugh has

stated. Mr. Cavanaugh stated that he was President of the Bar Association. I wish to say that I am Secretary. But, gentlemen, I wish to take issue with the Professor when he says that it is ostensibly because the people are afraid of the action of the court that they settle cases outside of court. I think he is wrong, he takes the wrong premises there. When he says the parties are afraid to come before the court to get justice, that is not so. When we try to settle we think that by doing so we will hold our clients, not because we are afraid. I think his premises are altogether wrong. I think if the Professor wanted to do right he ought to have taken the average of the work that has been done in the State in all the counties, and not single out one exception. That is the point. He might just as well go to the Northern Peninsula where they have one case a year, and then talk about the cost of administering justice. (Laughter.)

THE PRESIDENT: The Chair will recognize Mr. Handy.

MR. HANDY: Mr. President, and gentlemen: I happen to come from that country where the season that we are without ice is short, and I will have to ask to interplead in this case when the Secretary of the Washtenaw bar insinuated we have but one case a year. (Laughter.) If Professor Rood, for whom I have very high regard, not only because he is a professor in our splendid university, but because he and the President of this Association and myself labored there during the same years, and I would not for the world say anything to cast any reflection upon him, but if he is theorizing rather than talking from experience, then I think I may well say to the little Secretary from Washtenaw, that he is theorizing or has never visited the garden spot of the great Commonwealth of Michigan, if he thinks he has but one case a year. (Laughter.) I think it is unnecessary for me to say anything to you along that line, because I reported this morning that we have a splendid and harmonious Bar Association at the Soo of twenty-five members, and if there was only one case a year, I don't believe I would be able to pay my expenses down here

to attend this splendid meeting. I think it is commonly understood that all the lawyers in the Upper Peninsula are connected in one way or another with some great mammoth corporation.

I do not want to enter into a discussion of the paper presented here by the Professor. I could not help but think as he was reading of the memorable words of a late President when he said that it is a condition and not a theory that confronts us. I believe the Professor is theorizing very much, and I do not believe that if he had been engaged in the actual practice, as many here have been for years, that he would believe that the theories advanced by him could be made practical, all of them. There are many ways in which the procedure might be simplified, but justice never costs more than it is worth. While one case may cost more to have a principle of law established than the amount involved, yet the result of that one case may be the means of keeping hundreds of cases of similar import out of court—that we never hear about. And so far as settling cases and not bringing them into court is concerned, I want to say that twenty-five years ago when I started upon the practice of my profession, I read an article in a journal concerning that great law firm in the City of New York, about which we heard this morning, the Choate firm, the largest firm of practitioners in the United States, in which that article said that they did not average more than one case a year in court, and went on to reason it out, that they were able lawyers, and they met their adversaries, of equal qualities, and could sit down and try the case themselves just as well as submitting it to the court; and I believe that many cases were settled out of court on that very theory, and I have tried to adopt it, and I have settled a great many cases that might have gone into court because I believed it was to the advantage of my client, and it was through no fear. And we can't reckon by going over one year of Washtenaw County, or any other county, the amount of money involved in judgments, whether the cost of getting those judgments was worth it or not. I thank you.

MR. CARNEY: Mr. President.

THE PRESIDENT: Mr. Carney.

MR. CARNEY: I want to preface what little I may say about this by stating first that I can't subscribe to the startling doctrine that we have listened to by the Professor. However, there is something that has been running through my mind in which there is food for thought. When we stop to think that cases involving hundreds of thousands of dollars in the State of Michigan are being litigated under a scheme that is almost as startling; that a very few years ago such cases were being contested before juries with the usual array of counsel that the Professor has outlined—I refer to the work of the Workmen's Compensation Board,—I would like to hear this matter outlined by a gentleman who is present representing that board, and let us stop and think for a moment how similar the work of that board is in many respects to this startling doctrine we have listened to this afternoon. It is said that fifty thousand cases in Michigan were handled last year by the Workmen's Compensation Board, with an appropriation of \$45,000, and in not one of those cases was there a jury of twelve men, or any other number of men, and in many of those cases the poorer clients were not represented at all. How did they work it out? By some such scheme as my brother the Professor has outlined. Of course we all know about the system in a way. They have this Referee, whom they call a Deputy, that goes out in the field where an accident occurs and makes a personal investigation, takes testimony, and makes a finding; no jury, just an arbitrator, which I might say is practically useless in the application of the law, as persons who have had experience know. The decision of the Deputy or member of the Board—there is no jury—the decision of the Deputy is the decision, and it involves hundreds of thousands of dollars that four or five years ago was being litigated over in our courts at enormous expense, and I believe the system is one that is a success, one that will be more of a success in the future. It has even gone so far, I think, in

the State of Pennsylvania, under the Statute, that they are permitted to take hearsay testimony in order to get at the truth. After the decision is made, without formality, by merely a letter the matter may be removed for review to the full board. Again no jury. This Board is made up of two laymen and a lawyer. The laymen might perhaps be called the jury, and the lawyer's judgment that of the court. The laymen bring to bear their experience among men; the lawyer applies the legal doctrines, and usually his judgment is given consideration—not always. I would like to hear from Brother Smith of the Workmen's Compensation Board as to the success in his judgment of this startling scheme that we are administering law under in Michigan today.

MR. SMITH: Mr. President, and members of the State Bar Association: I don't know why I should have been called upon at this time, particularly by a man who has been upon the Board about as long as I have; and Brother Carney knows more about this law than I do. I don't know why he didn't tell you all about it instead of asking me to do so. I was very much interested in the paper of Professor Rood; yet it seems to me that this new departure in our state does not apply very much to the situation. The Professor suggests that it might be a good idea to prevent persons and their attorneys from taking any part in the litigation of their differences. It seems to me that this is a startling proposition. The idea that an individual himself, or his attorney, should not have the right to shape the course of the litigation in which he might have a personal interest, is to my mind, most startling, and it seems to me that it strikes absolutely at the foundation of all justice. It is a doctrine as old as states and constitutions, that every man shall be entitled to be heard in all matters in which he is personally interested, and to himself shape the course of the litigation which determines his rights. Now I do not think that the doctrine under which the Workmen's Compensation Board and Commission has been established in thirty-five states and territories, has much relation to ordinary litigation at all. It is an absolute revolution. I remember when

I first paid any attention to the doctrine. A good many years ago, I don't remember just when, but I think in 1902 or 1904, in a message which President Roosevelt at that time sent to Congress he advocated the proposition that the National Government and the states should provide that money be paid to an employe injured through his own negligence even though his employer was not negligent, but was absolutely careful, and not in any way to blame. And I remember reading that paragraph over several times to see whether it was a misprint. I did not think it was possible that a man who was President of the United States could advocate that any employer, absolutely without fault, absolutely without negligence, should pay indemnity to a man who was negligent and who was injured solely and entirely by reason of his own negligence. I thought that was so revolutionary that it struck at the very foundation of justice. But thirty-five states have seen fit to enact just that kind of legislation, Michigan being included. Now it is true that the Industrial Accident Board of this State render judgments and supervise agreements amounting to more than \$2,000,000 a year, and yet the fact that they have been able to do that is not, to my mind, any precedent for the changes that have been suggested by the Professor. In the first place, if the man is in the employ—and that is usually a question of fact, sometimes of law—if he is in the employ of the employer, and he is injured, he is entitled to money, with some rare exceptions. Brother Handy says unless he is an independent contractor. So the first thing to find out is whether he is working for the other fellow. All the other matters are mostly laid down. Of course there are some legal principles involved, quite a good many. What were his wages? How long has he been employed? How do you compute what he is entitled to? How badly is he hurt. The Industrial Accident Board is to quite an extent a jury. They are placed in a position where they have to pass on many questions of fact and upon which they are the final arbiters. The Supreme Court has said that it will not weigh the testimony upon questions of fact decided by the Industrial Ac-

cident Board. Some members of our Board, think, however, that when it wants to weigh the testimony it discovers that there wasn't any testimony to sustain the finding. That is the way the Supreme Court has been able to correct the Industrial Accident Board in some instances. I happened to be up there to hear my associate counsel argue a case in the Supreme Court the other day. One of the judges told me that a few days ago a member of the Bar was arguing a case before the court, and in the course of his argument made use of this statement: "Of course the Industrial Accident Board has no knowledge of legal principles." The Justice wanted to know if I agreed with him. I said I did. (Laughter.) But it seems to me that the work of this Board is absolutely removed from the field of ordinary litigation. The course to be pursued by the Industrial Accident Board is to a great extent marked out by statute; they are to apply that statute to the facts that exist. The facts, of course, are sometimes disputed, and the Board has to act as a jury; the committee of arbitration acts as a jury as to the facts. Usually the facts are not difficult to ascertain. The Board and Deputy Commissioners simply seek to bring out the truth. They sometimes, I guess, let in a little hearsay testimony, but the Supreme Court has said they haven't any right to base their decision upon hearsay testimony. When they do let it in, they let it in as the courts of this state do sometimes, just let a little in, and lawyers know it sometimes results in bringing out the truth. If you get a little hearsay testimony it sometimes leads you to the fountain where the real truth is. In your practice you all know that, and you sometimes try to put it in in chancery cases, and also in law cases. I have got over some of my old notions; I am not in the state of mind I was in when I read Roosevelt's message. I do not believe it is absolutely revolutionary to compel the employer, without negligence, to pay money to an employe who has been negligent. Of course that legislation has been adopted and approved by so many courts and in so many states that we have gotten away past all questions as to its constitutionality. But I have not got to that point yet

where I would be willing to prevent a suitor or his attorney from taking charge of his litigation, and I do not believe, as a general proposition, I would like to try cases before one juror. Of course, I suppose there are ways by which we may simplify our present practice, although it is pretty simple now. Any man who has any ability or experience can get into court, and he is not going to have to spend very much time arguing with the court as to questions of practice. If his declaration is a little wrong, and if it does not injure the other fellow, he can amend, and amend on sight. If it introduces a new cause of action, or places the other man at a disadvantage, the other party has some rights too. I believe our courts and system protect the rights of the people of Michigan pretty well. I think we ought to make haste slowly in adopting any revolutionary methods.

**THE PRESIDENT:** Gentlemen, Senator Pomerene has been with us thirty minutes. I should feel like apologizing to him except for the fact that we have been exercising a certain senatorial prerogative of free discussion here, and I am sure he will appreciate the interest that has been manifested, and possibly he may be able to take back to Washington a new line of vision. At all events, we know that he is here to give us a new line of vision, and I think it may be well at this time to suspend this discussion, postpone it, not conclude it, and to present to this gathering the gentleman who has come to us from his duties in Washington,—pressing duties. We are under deep obligation to him because he has come at a time when it was most difficult to leave. I now present to the Michigan State Bar Association, a senator from the Presidential timber belt of Ohio, Honorable Atlee Pomerene, who will speak to us upon the subject, "Our Increasing National and International Responsibilities."

**SENATOR POMERENE:** Mr. President, and gentlemen of the Michigan State Bar Association, ladies and gentlemen:

I want to assure you that it is a great pleasure for me to come before a body of lawyers. The law was my first love, and

I yearn to see the day that it may be the jealous mistress that shall control every hour of my time.

In answer to the question which was asked by one of your distinguished speakers this afternoon, "Must we have lawyers?" my answer is, we must always have lawyers. They are the leaders of thought in every community. They have done more for the cause of human liberty than any other profession on earth.

I am delighted to come to the state that is so ably represented in the Senate by my very good friends Senator William Alden Smith, and Senator Charles E. Townsend. I am glad to call them friends. They and I can agree in almost everything. Of course on the subject of politics I have some mental reservations. (Laughter.) But I shall not dwell upon that subject today. I was at a loss to know what I should speak to you about, today. Your program indicates what my subject is. I hope that what I say may be not be disinteresting. We are at a crucial time of the world's history, and the nation's history; hence the subject that I have taken, and I have done what I do not often do, commit to manuscript what I have to say:

(See Appendix for paper of Senator Pomerene.)

THE PRESIDENT: We will take a recess for ten minutes.

THE PRESIDENT: Gentlemen, there is some further business. I understand that you have been here a long time and we will hurry through with the remainder of this work as rapidly as possible.

MR. HANDY: Mr. President.

THE PRESIDENT: Mr. Handy.

MR. HANDY: Mr. President, and gentlemen: I am sure that we have all enjoyed the splendid and scholarly address of the distinguished senator from our sister state, and I move

you that we extend a rising vote of thanks to him for that splendid address, and I would ask that with his permission the address may be spread upon the minutes of this proceeding, and that we request him to carry back to Washington the assurance to the President of the United States that the lawyers of Michigan are at his command. Which motion was duly seconded and unanimously carried.

**THE PRESIDENT:** There was a Committee of which Judge Perkins is Chairman, appointed with relation to speeding up the publication of the Supreme Court decisions. Judge Perkins.

**JUDGE PERKINS:** Mr. President, and gentlemen. I will take but a moment in making this report. I made the motion for the appointment of a committee to investigate this subject by reason of a letter which had fallen into my hands from Callaghan & Company and which I desire to read to you. Callaghan & Company as you know, are the publishers of the Michigan Reports, and I thought it best to bring the matter before the Association in order that the matter might be investigated, and if there is anything to be gained by the proposition here made by the members of the bar of the state may profit by it. (Reads letter.)

I am reading this letter not as expressing my own views concerning the matter, but as a communication from this publishing house to the members of the bar of the State of Michigan, as a subject worthy of the consideration of the members of the bar. The committee met in the adjoining room after the noon recess and talked this matter over, and we were all agreed that it is quite essential to the members of the bar that some change be made, if possible, with reference to the publication of our reports, bringing them down to date if possible, and also with reference to the publication of advance sheets. As it is now, we get the advance sheets, as you know, in the Northwestern Reporter, something like thirty days, and perhaps longer, after the decision has been handed down. With the proposition outlined in this letter it is promised, at least, that we shall get the official reports in advance sheets within

at least two weeks from the time that the decision is handed down. The Committee has prepared a resolution which it will submit to the members of this Association for its adoption or not, as it sees fit. The resolution reads as follows:

RESOLVED: First:—That the Supreme Court be requested to take such steps as may be necessary to have the Official Reports of Michigan published in Advance Sheet form, carrying the same volume and page numbers as the permanent edition.

Second:—That steps be taken to procure the immediate publication of the decisions already handed down by that court in permanent book form.

• Third:—That a committee of this Association, with power to act, be appointed to communicate with the Supreme Court the desires of this Association in these matters, and co-operate with that court and others in authority, to the end that the purposes above stated may be accomplished.

I move the adoption of the resolution.

The resolution being seconded was adopted.

The Secretary here read an invitation from the Detroit Convention bureau to hold our next annual meeting in Detroit.

THE PRESIDENT: Is there any other unfinished business to be brought before the convention?

MR. FISKE: I am not a member of the Association. May I say something?

THE PRESIDENT: If there is no objection to the gentleman making a statement—I assume it is in connection with the report of the committee just made.

MR. FISKE: In connection with the use of these advance sheets.

**THE PRESIDENT:** Does the Chair hear any objection to the statement being made concerning the use of the advance sheets? The Chair hears no objection. You may proceed.

**MR. FISKE:** I desire to say, in addition to what has been included in this communication from Callaghan & Company, that if these advance sheets are published we will be glad to allow the Association to use it as a means of communication with its members so far as any announcements, obituaries, or anything of that sort is concerned. Since the abandonment of the publication of the Detroit Legal News you have no means of communicating with each other, other than by letter, and we will be very glad to devote a page or pages in any number to this purpose. I thank you.

**MR. SLOMAN:** Under the head of Committee Reports is there not a committee in regard to State Capitol and Supreme Court that is ready to report?

**THE PRESIDENT:** There is such a committee. Mr. Foster was chairman.

**MR. FOSTER:** Mr. President, it is my brother who was chairman of that committee. He is unable to be here and in his absence I might make a report. A bill was passed appropriating \$800,000 for an office building to be erected on land now owned by the state, and the Board of State Auditors is given authority to determine the plan of the building, who shall occupy it, and the location of it. While it was generally understood that it would not be an addition to the Capitol, but would be erected upon vacant land about a square away, the Board of Auditors is not limited by the bill. \$200,000 a year is appropriated for four years. I believe the Governor was also made a member of the Board for that purpose. No plans have as yet been asked for, but I happen to know that the Board of Auditors is considering calling for plans very shortly. I might say that there has been a sort of feeling

around Lansing that it would be a separate building, and that the Supreme Court would probably be placed in what is now the General Library, the Law Library to be left in its present location, and that wing of the Capitol to be made fire-proof, but that has not yet been decided upon.

MR. SLOMAN: The Association has for a number of years had a working committee, whose aim has been to provide suitable quarters for the Supreme Court in view of the congested condition of the Capitol building. The committees appointed at various times by this Association have endeavored to get through a bill for putting an addition to the Capitol, whereby more room could be obtained, so as to provide necessary quarters for the court and judges. Mr. Foster I believe was chairman of the last committee who had that matter in charge. The committee had the same object in view whether it related to a separate building or an addition to the Capitol. I understand the bill provides for a separate building, and that it is planned in the separate building to house the various boards and commissions that are now in the State Capitol so as to leave sufficient room to provide suitable Supreme Court quarters. As I understand it is expected to remove the General Library to the new building, and to use the space occupied by the General Library for the use of the court. To do that will necessitate some action by the State Board of Auditors. Inasmuch as this Association has for years been working along the lines of providing the necessary quarters for the Supreme Court, I would move you that the former committee continue its work with a view of seeing that suitable quarters are provided. Even in the event of the erection of this new building it is not likely that the Supreme Court will occupy it. It is much preferable to have the Supreme Court remain in the Capitol building, and I presume that is the wish of the judges. But in order that they may work comfortably and not continue to be subjected to a constant menace to their health in their present quarters, it is necessary that some vigorous action be taken on the part of the committee, to the end that the State Board of Auditors use the quarters vacated for the

Supreme Court, and nothing will be accomplished if we do not have a committee which will continue to work persistently to bring about what we have been after for years. I move you, therefore, that the former committee be empowered to continue to act toward procuring the needed quarters, and to spend what may be necessary for traveling expenses, etc., using all proper influences with the Legislature and the State Board of Auditors as they see fit towards the accomplishment of the end desired. I think that there was a committee of three, was there not, Mr. President?

THE PRESIDENT: That is my recollection.

MR. SLOMAN: Mr. Foster should be made the chairman of that committee so as to continue the work. He has done splendid work in connection with the securing of this appropriation for the new building, and he is able and energetic. Which motion, being seconded, was unanimously carried.

MR. SLOMAN: The report of the Committee on Legislation was laid on the table this morning. It seems hardly right and just that that report should lie upon the table and be lost without some action being taken with regard to the recommendations contained in it. It seems to me either at this time, or when the matter is considered later, the various recommendations referred to in that report should be dealt with. It is not fair to that committee to ignore it.

THE PRESIDENT: Permit me to suggest this: That you or someone present give notice that tomorrow morning at the conclusion of the regular program, or at such other time as you may see fit to designate, a motion will be made to take that report from the table. I think it should be taken from the table.

MR. SLOMAN: I give notice of that now.

**THE PRESIDENT:** Is there any further business before the adjournment? If not a motion to adjourn is in order.

**A MEMBER:** I move that we adjourn. Which motion was duly seconded and carried.

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### SATURDAY MORNING.

**THE PRESIDENT:** The meeting will please be in order. The Chair desires to announce the appointment of the members of the committee to confer with the Supreme Court upon the question of advance sheets of decisions, and the more punctual production of bound volumes of Supreme Court Reports. Upon that committee I will appoint as Chairman, Judge Perkins of Grand Rapids, together with William Potter of Hastings, and Fred C. Wetmore of Cadillac.

Upon the Nominating Committee I will appoint Fred Maynard of Grand Rapids, C. W. Perry of Clare, and Charles Nichols of Lansing.

The first order of business this morning is the report of the Committee on Legal Education and Admission to the Bar; Dean Bates of the University of Michigan is Chairman of that Committee.

(See Appendix for report of Committee on Legal Education and Admission to the Bar.)

**DEAN BATES:** I wish to add to this report the expression of regret of the committee at the unfortunate death of Mr. Charles M. Wilson of Grand Rapids, for some years a member of the State Board of Law Examiners. I know from his colleagues that the state, and the Bar particularly, of course, have suffered a severe loss in his death. Had I known of it before it could have been incorporated in an appropriate place in the report.

I wish also to add this suggestion, that all of us study the proposed standard rules for admission to the Bar, which have finally been published. They are published in the proceedings of the A. B. A. for 1916 and in the Journal of the American Bar Association, and at the last meeting of the Association those rules were referred to the Committee of the Bar Association on Legal Admission to the Bar, and are now in course of revision. It seems to me that this is a matter of sufficient interest to take at least half hour of every member of the Bar in order that the committee may have the benefit of suggestions and criticisms. I may say that it is peculiarly gratifying that those standard rules, whether designedly or not, follow pretty closely the scheme for admission to the Bar in the State of Michigan under the statute adopted three or four years ago, and that in the discussion before the committee it was recognized by most of them, and they came from several different states, that our plan on the whole is certainly as good as that of any other state, and probably better than that of any other state. It is further gratifying to most of us at least to find that the committee has definitely taken the stand that admission to the Bar in the future, should, except in exceptional cases, be through a law school of approved standing and of something like a standard curriculum.

THE PRESIDENT: You have heard the report. What is your pleasure. If there be no objection—

JUDGE CAHILL: Mr. President.

THE PRESIDENT: Judge Cahill.

JUDGE CAHILL: I had hoped that someone else would raise the point, which seems to me to be the only point that can be criticized at all, if that may be properly, and that is the criticism, or expression of opinion adversely to the action of the courts of Detroit in the admission of students to the Bar. Now it seems to me, Mr. President, that it all depends upon whether or not the courts of Detroit were acting within

their jurisdiction or not. I acknowledge so far as I am concerned, that I do not know whether under the present statute they had power to admit students to the Bar with or without an examination. I don't know anything about it. I have no doubt that Professor Bates does know. But if they had the power, I should be loath to voice any criticism of their exercise of that power. If they haven't the power it may be reviewed in some other tribunal than this more properly.

MR. WARNER: Mr. President.

THE PRESIDENT: Mr. Warner.

MR. WARNER: Just a word that I would like to add. It seems to be customary when someone from the University gets up to warm him up a little before he gets away.

There is only one point that I would like to make on Professor Bates. He spoke about there being some danger of some young fellow that went into the army as a United States soldier, some possibility that a fellow might fix up some papers and make it certify that he had a good record in the army when he didn't. I couldn't understand what Professor Bates was thinking about; I couldn't understand where the Professor got that idea, of a young fellow that had been serving his country telling a lie to the University.

DEAN BATES: May I make this suggestion: Barring the fact that I did not say those who entered the service but merely those who pretended to, and barring the fact that the imposition was on the State Board, and not on the State Law School, your remarks are substantially correct. (Laughter.)

MR. WARNER: I want to have the Professor cut out that line before we adopt it, because I hate to tell a lie unless it is absolutely necessary. (Laughter.)

MR. SLOMAN: I am a graduate of the University of Michigan Law School, and I give way to no one in my loyalty to that institution. I happen to know something of the facts in relation to the admission of the young men to the Bar in the City of Detroit, so I may speak from actual knowledge, because those boys that were admitted happened to be members of the class that I was aiding in teaching at the University of Detroit. These young men had not only done splendid work at the University, but they had numerous examinations prior to the presentation of their application for admission to the Bar before the Wayne Circuit Court, and it was only after the Judges of the Wayne Circuit Court had made inquiry into the proficiency of these young men, and found also that the action of the State Board of Examiners was merely advisory, and that the Circuit Court still had power to pass upon admissions, Judge Murphy admitted those young men to the Bar under extraordinary circumstances, at a time when they were willing to sacrifice their future and their lives on behalf of this country. It seems to me in bad taste, coming from the Association, under the circumstances, to put itself upon record as approving the recommendation contained in Dean Bates' report with regard to the action of the Circuit Judges of Detroit. There is a tendency, unfortunately, to decry the judges of the courts, and anything of this character that goes forth, dignified by the influence of the State Bar Association, is likely to do great harm, and there is no justifiable warrant, in view of the extraordinary circumstances, for any criticism upon the action of the Detroit judges in admitting those few young men, who had enlisted, to membership to the Bar. I, therefore, Mr. President, move you that the report of the committee be approved excepting that portion in which there is a recommendation or condemnation of the action taken by the Wayne County Judges.

MR. NICHOLS: Mr. President.

THE PRESIDENT: Mr. Nichols.

**MR. NICHOLS:** I sincerely hope that motion will not prevail.

**THE PRESIDENT:** Pardon me, there has been no second as yet.

**MR. CAHILL:** I will second it for the purpose of getting it on the record.

**THE PRESIDENT:** Proceed, Mr. Nichols.

**MR. NICHOLS:** If the Courts of Wayne County, or of any other County—because I do not assume the Courts of Wayne County have any greater jurisdiction than the Courts of Kent County on the subject of admission to the Bar—have the authority to admit students to the Bar without the examination provided by the statute, then the statute is absolutely a dead letter. The question comes whether the Court or the Legislature has the control over admission to the Bar, because anyone who is at all familiar with the statute governing admission to the Bar knows that a Court has no power or jurisdiction to admit to the Bar except upon the production of the recommendation of the State Board of Law Examiners after the passing of a successful examination. There is no room for argument in regard to it, absolutely none. If the Legislature has no power over the subject, and the Courts have the inherent power to admit in disregard or in violation of the law, then the action of the Court in Wayne County was entirely proper. But the statute expressly provides that applicants who have studied law for four years in a law office, and who demonstrate or prove to the satisfaction of the Board of Examiners that they are possessed of certain educational qualifications, or if they have been three years a resident student of some university or law school they may be admitted to the Bar upon passing the examination of the State Board of Law Examiners, and they cannot be admitted because of any extraordinary reasons or any extraordinary conditions, nor because they have had a wonderful record or good

record in school. That is not a part of the qualifications prescribed for admission to the Bar. Now it is absolutely immaterial to me, if you please, gentlemen—in fact, we have no desire to examine students any more than we have to, because it is a lot of hard work. But my attention was brought to those things by the Clerk of the Supreme Court, when a certified copy of the record of the admission of some of those young men was filed with the Court for the purpose of having their names enrolled upon the roll of attorneys in the Supreme Court. The last information I had from him was that those attorneys could not be enrolled as members of the Supreme Court, because their admission was entirely illegal and unwarranted. Now I am not particular whether this State Bar Association takes action upon this matter one way or the other, but I simply do not want this Association to go upon record as adverse to the proposition that the Wayne Circuit Court had any jurisdiction or any power to admit those young men without the usual examination, that is all. You need not possibly approve of it if you do not want to. But do not approve of it by approving all of the rest of the report but that, and thereby give your indirect sanction to the action of the Wayne Circuit Court in admitting those young men, because there is no argument, gentlemen, about the proposition, that the only way for a man to get admitted to the Bar—it may be a poor law, but it is the law—the only way to get admitted to the Bar today, is to take the Bar examination by all students; and it is not within the province or jurisdiction of any Circuit Court or of the Supreme Court—and I submit the Supreme Court has fully as much jurisdiction over the matter as the Circuit Court—it is not within their province to admit anybody for any reason, or for any other reason except that they have produced the certificate of the State Board of Law Examiners, that they have successfully passed the examination. Therefore I make a motion that the report be adopted.

THE PRESIDENT: Judge Cahill.

JUDGE CAHILL: I want now to retract what I said when I was on my feet before in saying that I knew nothing about the rule that was required for the admission of an attorney to the Bar. I do now know, after hearing Mr. Nichols' statement of what the law is, because Mr. Nichols is ordinarily informed upon that subject, having served for years upon this examining board. And yet, Mr. President, I think it unbecoming in us to pass practically a resolution of censure upon one of the Courts of the state, if there is any other possible way of having it reviewed. Now I understand from him that the Supreme Court, the last information he has about it, is that the Supreme Court has declined to enroll those attorneys.

MR. NICHOLS: I did not quite say that. I said the Clerk had informed me that they could not be enrolled.

JUDGE CAHILL: Then the matter has not been brought to the attention of the Supreme Court. This Examining Board certainly have it within their power to undertake to see that those men are not enrolled and to get the action of the Supreme Court upon the subject, and it is their plain duty to do so, because it is their duty not only to examine students, but it is their duty to see that the law governing their examination is observed and is not recklessly and improperly disregarded; and I therefore suggest—I don't myself wish to pass any resolution approving the action of the Court, nor do I desire improperly, as it seems to me, to censure the Court—therefore I should like to have this report recommitted to the committee, and that they may be requested to modify the report to the proper extent. I move as an amendment that the report be recommitted to the committee with the request that they make such an amendment to the report as will not offer any reflection upon the Courts.

MR. GRISWOLD: I support that motion.

DEAN BATES: Mr. President, in drafting the report it was my earnest desire to keep out of it any reflection upon the

Court, other than that upon the policy and wisdom of its procedure. It happens that Judge Murphy, who has been mentioned, is I think a warm personal friend of mine, been a guest in my house, and I have the highest respect for him and the other Judges concerned. I have no doubt, as has been said, that the young men in question were admirable young men, and I have great respect for the work of the school of which they are graduates. The sole feeling which I had, and which my colleagues on this committee had, was that we should attempt to create an opinion, a public opinion, among the Bar, unfavorable to the repetition of this kind of thing in the future. I haven't the slightest desire to discuss this particular incident. It is merely that a dangerous precedent may grow out of this, if we as a Bar do not express our opinion that admission to the Bar should be through the regularly constituted channels in accordance with the statutes of the state. But following the suggestion of Judge Cahill, I should be very glad, so far as I am concerned, if there is anything in the report which seems to reflect upon the Judges, to cut it out. Their motive was the best. Here were young men who were going forth in a generous spirit to serve their country. The Judges wanted to take account of that fact and let them through; but in other schools of the country were hundreds of other young men, with the same generous impulses, offering themselves in the same way. Nevertheless, these young men should do as the State Board asked them to. We have reason to believe, as the report suggests, that the State Board intends to take account of this situation, and to admit upon examination in the regular way such young men as have offered their lives and services to the country who were in good standing at the time they went to the front. However, I am willing, and in fact desire, if anything in here seems inappropriate, or seems to reflect upon the personal motives of the Judges, to eliminate it. I know their motives were the best. But I do think after many men of this state have fought hard to establish a good system for admission to the Bar, it is entirely appropriate and respectful and not in any way inimical or hostile to the Courts for the State Bar Association to

go on record as to what its opinion is. It is a respectful opinion and I think the Courts would be glad to have it. I do not know how the Bar is to maintain the proper standards if it does not express its opinion upon such an exceedingly important matter as to how new members should be added to it. If I can in any way change this report to conform to Judge Cahill's suggestion, I should be glad to do so with the consent of the other members of the committee. I want to apologize before sitting down for not having read the names on the report.

**MR. JANUARY:** Will Dean Bates read that portion of his paper referring to the admission to the Bar again. (The portion of the paper referred to was again read.)

**THE PRESIDENT:** A motion to recommit is before the house. It has been moved and seconded that the report be recommit-  
mitted. So many as favor the motion to recommit say aye.  
Opposed no. The motion is lost.

**MR. CARNEY:** Mr. President.

**THE PRESIDENT:** Mr. Carney.

**MR. CARNEY:** I understand the original motion is before the house now.

**THE PRESIDENT:** Yes.

**MR. CARNEY:** This matter strikes me from a different angle perhaps, and still I think we can all agree to consider it for a moment. From what I understand of the remarks of Brother Nichols, he considers this a wholly illegal action. In other words, the judgment is void. Now if that is to be mixed up in this question, I don't feel that this body ought to constitute themselves into a Court of Review to pass on it. On the other hand, I do not believe that we ought to criticize the

judgment of any Court without a full hearing. Now if as my Brother Nichols has stated, this action was illegal, there must be a remedy, a legal remedy, and it will take care of itself in the natural order of things. If it should turn out that my Brother Nichols is mistaken in the law, and the Judges in the City of Detroit are correct in the law, then undoubtedly he would agree that there should be some legislation upon this question. Then we would be relieved from criticizing the action and judgment of the Circuit Court, without any of the parties having an opportunity to be heard. I think it is a bad policy to say anything upon any judgment that has been entered by any Court in a particular case. Now this report, as I understand it, is directed against a particular instance, and we are asked in a way to criticize that judgment, not to say what the law ought to be or how it ought to be changed. Let us find out first what it is, if there is a legal question involved, and then let us handle it. That is the way it strikes me.

MR. LILLIE: Mr. Chairman.

THE PRESIDENT: Mr. Lillie.

MR. LILLIE: When Dean Bates read his report I thought I understood what he said about that admission at Detroit. When he reread it I was more firmly convinced that I understood what he meant than in the first place. I do not take that report as a criticism, particularly, of the action of the Court in Detroit, but more as a suggestion of caution in the future by other Courts, and for that reason I personally want to have it adopted.

MR. JANUARY: Judge Murphy entered an order, and on that order there was action taken. These young men have departed in the firm belief that they are admitted to the Bar. Until that order is set aside, or until some action is taken on a refusal to enter it, these young men are regularly admitted

to the Bar according to the decision of Judge Murphy. If Judge Murphy is wrong there is a means of reversing his decision; there is a means of refusing to recognize it. Those men are today members of the Bar as much as if they had been examined before the Committee and passed there. So far as the action of Judge Murphy is concerned, if he is wrong, his action can be reviewed, but I do not think it is incumbent upon this Association to pass its opinion upon whether Judge Murphy is right or wrong, but I think we should await until the evidence is presented before the proper Court and the proper determination of that Court as to whether those men are admitted or not. I think it would be a bad precedent to adopt this recommendation at this time. Judge Murphy is a careful lawyer. If there is an old statute providing for it, he may have acted under it. As Dean Bates treats it his action is absolutely void, and he had no right to do it. I do not think we have any right to say whether that is so or not. It is an order of Court; Court was in session when it was done. I think all criticism, and all reflection should be cut out of it, and if anything is done it should be tested out as to whether Judge Murphy's action was legal or illegal.

**MR. MAYNARD:** The way out of this dilemma, in my judgment, is this, and I therefore move as a substitute: That the report of the Committee on Legal Education be accepted and filed. Which motion was duly seconded.

**THE PRESIDENT:** Gentlemen, you have heard the motion of Mr. Maynard, that the report be accepted and filed, the motion being a substitute for the motion made by Mr. Sloman that the report be adopted except in certain particulars.

**MR. MAYNARD:** My motion is that the report be accepted and filed without our taking any formal action on the matter that has been discussed.

**THE PRESIDENT:** You have heard the motion. What is your pleasure?

The motion was adopted.

PROF. ROOD: I do not like to impose myself upon this body, but I do beg the privilege for just a moment to say a word and to correct an impression that seems to prevail from remarks that have been made by individuals and upon the floor of the meeting that I entertain the opinion that lawyers are useless appendages in society, and that we can get along without them. If I ever said or thought such a thing it was when I was dreaming; I never entertained it. If the lawyers are to be dispensed with, who can we get so well qualified to do the work, which must be done by somebody, as by the lawyers. Nor do I entertain the idea that the lawyers are unfit or have illy performed their services. I said very distinctly yesterday, that I believe there is no profession in which higher standards are entertained or in which the men receive a smaller compensation for the necessary labors they perform than the legal profession. I think we may be proud of the standards that are maintained by our profession; and while it is true that in all professions occasional instances will arise in which unworthy conduct will be indulged in, the legal profession I think is as free from that as any profession is, and I wish most distinctly and emphatically to deny that I have entertained or expressed any opinion, here or elsewhere, that the lawyers are unworthy, or that they are unnecessary. We have to have them, and we want good ones. I thank you.

THE PRESIDENT: We will proceed now with the regular order.

JUDGE KNAPPEN: Mr. President, I think this is an opportune time to present the report of our committee.

THE PRESIDENT: Very well, Judge Knappen, you have the floor.

JUDGE KNAPPEN: Mr. President, and gentlemen: The com-

mittee consisting of Judge Denison, Justice Fellows, and myself, who were yesterday appointed to present a suitable testimonial upon the life and character of the late Judge Person, submit at this time such proposed testimonial. It should be said that the language of it is that of Justice Fellows.

(See Appendix for Report.)

Mr. President, I move the adoption of this testimonial.

MR. LILLIE: Supported.

MR. SLOMAN: I move as an amendment that it not only be adopted, but that a copy be transmitted to the Supreme Court of the State of Michigan to be spread upon its records, and a copy sent to the family of the deceased.

THE PRESIDENT: I assume that may be incorporated in the report, Judge Knappen?

JUDGE KNAPPEN: Surely.

The motion unanimously prevailed.

THE PRESIDENT: At this time, a little out of the regular order, but somewhat consistently with the resolutions just adopted and ordered spread upon the records, I have the very great pleasure of presenting to this organization of Michigan lawyers a gentleman who has lately been the head of the government of this great Commonwealth, and in whom I believe I am safe in saying men of all parties reposed utmost confidence. He has come here by request of your Executive Committee to say a few words concerning the late Judge Person; it having been the belief of the committee that no man in the state, by reason of close relations with the late Judge Person, whom he had appointed to the Supreme Court, could more fittingly at this time perform this service.

Therefore I have great pleasure in presenting—not introducing—to this body, ex-Governor Ferris. (Applause.)

MR. FERRIS: Mr. President, and members of the Michigan State Bar Association: I thank you most heartily for this recognition and for the opportunity of saying a few things concerning Judge Person. My paper is exceedingly brief, and must necessarily repeat somewhat what is contained in the resolutions which have just been adopted. I feel very confident you might better have chosen some other man to offer this tribute, but I am glad to have the opportunity, however, of saying a word concerning Judge Person.

(See Appendix for paper of Governor Ferris.)

MR. CLAPPERTON: At the request of the President of our Local Bar Association, and in compliance with a suggestion that has come from the members of the Supreme Court, I desire to present a motion at this time. I move you, sir, that a committee of three be appointed by the Chair, to arrange for a suitable portrait of Judge Montgomery to be placed in the Supreme Court Room. Which motion was duly supported and unanimously adopted.

MR. SHIELDS: Mr. Chairman.

THE PRESIDENT: Mr. Shields.

MR. SHIELDS: Pardon me for taking a moment to add one thought to the memory of Judge Person, with whom I was associated in one way or another all my life from the time he held me on his knee when I was a baby, until I stood in the room as he died. With all of the splendid eulogies which have been paid to my friend and associate, there has been one element, to my mind, overlooked, perhaps because those who have spoken of him did not have the intimate association with him in his last days that I did. But I cannot refrain from saying that one of the greatest thoughts that he had in the

last two or three years, was an abiding conviction, an everlasting conviction of the duty of the United States in this present war. He was unswerving in his belief that the cause of humanity absolutely necessitated the action that finally resulted in the United States participating in that war, and the last few days of his life I had several conversations with him, in which the predominating feature was a most intense patriotism and enthusiasm for the things which the United States was now standing for in the world's history. I thank you. (Applause.)

**THE PRESIDENT:** Resuming the regular order, I have the pleasure of presenting to the Association, Mr. Seymour H. Person, who will discuss for us briefly, the subject of "Recent Michigan Legislation of Interest to the Bar." Mr. Person.

**MR. PERSON:** Gentlemen of the Michigan State Bar Association: It is somewhat difficult at the present stage of the records of the last session of the Legislature, to select out those particular acts of the last session that are of interest to lawyers. No index has as yet been made; the clerks of the House have not yet succeeded in classifying the acts, and I was compelled to depend almost entirely on my memory of what legislation was finally passed in my effort to select those things that might be of interest to the Michigan Bar.

(See Appendix for paper of Mr. Person.)

**MR. MAYNARD:** Mr. President.

**THE PRESIDENT:** Mr. Maynard.

**MR. MAYNARD:** Gentlemen of the State Bar Association: Your Nominating Committee respectfully recommends the following nominations for officers and directors of the State Bar Association:

(See List of Officers for report of Nominating Committee.)

MR. MAYNARD: I move you, Mr. Chairman, that the Secretary be instructed to cast the unanimous ballot of the Society for the persons suggested by the Nominating Committee as officers and directors for the coming year. Which motion was unanimously adopted.

In appreciation of the efficient and untiring services rendered to the Association during the past year by President Hamilton, he was the unanimous choice, not only of the Nominating Committee, but of the entire Association on presentation of his name for President for the ensuing year.

THE PRESIDENT: I thank you for the honor, so far as I am concerned, and I take this occasion to inaugurate a new system, which I hope may hereafter prevail, but which so far as I am aware, has not hitherto prevailed, and that is that the new President of the Association shall take charge of the Convention immediately upon his election.

(Mr. Boudeman, Vice-President, on account of other duties, requested that his name be not presented for any office in the Association.)

MR. WARNER: I move that the Chair appoint a Judge Fletcher Memorial Committee of three, which motion was duly seconded and carried.

MR. LANDMAN: I have the report of the Auditing Committee.

THE PRESIDENT: We will hear the report of the Auditing Committee, which was adopted.

(See report of Auditing Committee following Report of Treasurer.)

MR. SLOMAN: Yesterday I gave notice of bringing up the matter of the report of the Committee on Legislation, this morning. Since we have listened to the report of Mr. Person

in which he has certain recommendations to make in the matter, among them being a law pertaining to the procedure in Justice Courts in cities exceeding forty thousand population. I think it would be hardly just to leave the report of the Committee on Legislation and Law Reform on the table, particularly in view of the fact that from the report it appears their efforts resulted in the passage of laws that this Association has fostered. There were other bills that did not pass, to which the committee should continue to give its attention. I therefore move you, Mr. President, that the report of the Committee on Legislation and Law Reform be accepted, and that they continue the work of securing legislative action upon the bills they did not succeed in having passed; and also that there be referred to them the matters recommended in Mr. Person's report, and in addition, that the thanks of this Association be extended to them for the work done as outlined in their report. Which motion was duly seconded.

THE PRESIDENT: Is there any objection to the report of the Committee on Legislation and Law Reform being unanimously considered taken from the table? The Chair hears none. The report is before you. A motion to accept, with some additions which you have heard stated—I will not at this time attempt to repeat them—is before you. Are there any further remarks?

MR. HANDY: I did not hear Mr. Sloman's motion entirely, but it is to adopt this report?

THE PRESIDENT: It is not an adoption; just an acceptance.

MR. HANDY: An acceptance of it might be construed as an approval by this Association without any further action, and I do not believe we want to go on record with any such understanding as that.

THE PRESIDENT: Let me suggest—as has been I think wisely suggested—that this report is the product of so much labor, so much thought, it embodies so much and it is so far

reaching in the consequences of its proposals, that it should be studied before it can be intelligently discussed. I believe it should be studied in your local Bar Associations, and discussed there, and when we come together next year in some city to which we shall be invited—we are not yet aware what city that may be—let us have in mind a studious discussion of the report of this year. There will then be time to determine what we shall do before the meeting of the next Legislature.

MR. SLOMAN: I don't understand an acceptance is an adoption of what it contains, but it is practically the same as being received and filed. There are the other recommendations that I referred to, and the committee still has its work to perform on bills that have not passed. They have done some laborious work, for which they ought to receive the thanks of this Association. The matters suggested by Mr. Person should be referred to them to report on at the next session of the Association.

THE PRESIDENT: I will not attempt to restate the question. I may state that in substance it is a motion to accept the report of the Committee on Legislation and Law Reform, and to thank them for their services. If anyone desires to have the motion read I will have it read by the Stenographer.

MR. LILLIE: I would like to hear it read. (The motion of Mr. Sloman was thereupon read.)

THE PRESIDENT: You have heard the motion as read by the Reporter. Are you ready for the question? As many as are in favor of the motion will say Aye. Opposed, if any, no. The motion prevails.

MR. CARNEY: I think it would be proper at this time, before many more members leave, and I do now, move you that we give a rising vote of thanks to the Grand Rapids Bar Association, and to the City of Grand Rapids for the splendid enter-

tainment that they have afforded the Bar Association of Michigan during our present meeting, which motion was duly seconded and unanimously adopted by a rising vote.

(At this point Mr. Carney, on behalf of the Bar Association of Kalamazoo County, extended an invitation to the State Bar Association to hold their next annual meeting at Kalamazoo. Mr. Handy presented a like invitation for the Association to hold their next annual meeting at the Soo.)

MR. JANUARY: I move that the invitations be referred to the Board of Directors for them to pass upon. Which motion was duly seconded and carried.

THE PRESIDENT: We are requested by the American Bar Association to select three delegates for the meeting to be held at Saratoga Springs, September 3, 1917. Do you care to name the delegates?

MR. MAYNARD: I move you, Mr. President, that that also be referred to the Board, because we don't want to nominate anybody that will not go.

MR. CARNEY: There is one objection I make to that motion. I think it highly proper that the President be at least one of those delegates; I think that has been the custom. Knowing his modesty, I make the amendment that the Chair be a delegate to the Convention, and that he appoint the other two. Which motion was duly supported.

THE SECRETARY: You have heard the amendment of Mr. Carney to the motion that the Chair appoint three delegates, the amendment being that Mr. Hamilton be the Chairman of the delegation. Are you ready for the question? All in favor of the question say aye. Opposed, if any, no. The motion prevails.

THE PRESIDENT: In a letter from the American Bar Asso-

ciation we have been informed that an organization within the medical profession has been perfected to meet the responsibilities of professional citizenship in the war. In view of the fact that members of that profession will be called upon to render military service, the doctors have arranged to take care of the practice of those who go, upon condition that a substantial share of the proceeds of the business is to be reserved for the doctor in the service, and with the understanding that immediately upon notice of his return such notice is to be given to the patient. I will not read all of the letter, but the suggestion is that a parallel arrangement should be sanctioned by this State Association, and communicated to the members of the Bar. It seems to me a wise provision, and if you see fit I shall be glad to entertain a motion that a parallel arrangement be communicated to the members of the Bar with the approval of this Association.

MR. HANDY: Mr. President, this matter ought to be prepared carefully. I don't know that I would like to undertake to offer a resolution which should be spread upon the records at this time, but I would be glad to prepare and support such a resolution later to be distributed by the Secretary to the members of the Association and other members of the Bar.

Which resolution as prepared and distributed to members is as follows:

WHEREAS, many of the lawyers of Michigan have volunteered their services to their country and enlisted in the army or navy or other forms of war services, and it is reasonably certain that many more will do so, and

WHEREAS, this Association realizes that such enlistment means an immediate loss of income and the possible dissipation of a practice built up by years of effort; therefore

BE IT RESOLVED, That this Association earnestly appeals to its members and all other lawyers in Michigan who are dis-

qualified by age or otherwise from rendering active service for their country, during these trying times of war, to assist in minimizing the sacrifice of those who do serve, *by taking care of and handling their unfinished business without expense, by keeping intact, so far as possible, their clientele, and by giving counsel and assistance to their families.*

THE PRESIDENT: I desire to make one announcement, and that is that the American Bar Association has sent here a number of blank applications for membership, with the very urgent request of their late President that our cooperation with the American Bar Association be accentuated and be made more general. If anyone desires to file an application for membership in the American Bar Association he may do so at the adjournment of this session, and I am sure it will be appreciated both by the State organization and the American Bar Association itself. I think this perhaps concludes the session, and I will entertain a motion to adjourn.

MR. HANDY: I do not want to appear officious or make too many motions, but I am going to make one which I am sure the entire Bar would gladly make. While there has been much said here about the splendid work which has been done during the last year, and while our President has asked us not to offer any financial reward even for his expenses, which is a most commendable stand, yet there is one thing that this Association can do, and to my mind ought to do, and that is to go on record that this Association does—and that is not playing with words either—that it does appreciate the splendid, energetic work performed by the President and the officers of this Association during the past year, and my purpose now is to move you that this Association extend to Mr. Burritt Hamilton and to all the officers of the Association a hearty appreciation for the efforts which they have put forth during the past year. Which motion was duly supported. The question is upon the adoption of the resolution. Are there any remarks? If not, all in favor of the motion will rise. The motion is unanimously adopted, Mr. President.

**A MEMBER:** I move that we adjourn. Which motion was duly seconded and carried.

**The meeting stands adjourned.**



## APPENDIX



## PAPERS AND ADDRESSES



## **PAPERS AND ADDRESSES**



## PRESIDENT'S ADDRESS.

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HON. BURRITT HAMILTON, BATTLE CREEK.

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## PATRIOTIC DUTIES OF THE BAR.

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The late Judge Person, in his address as President of this Association in June, 1914, made a statement that now seems prophetic. "In the operation called evolution," he said, "when everything seems settled down to certain customs and habits of thought, there is undoubtedly a gradual growth and development of sentiment which is hardly perceived until it has gained sufficient force and impetus to break out in a sort of convulsion."

Within sixty days after these words were spoken, Prussian militarism, "a gradual growth and development . . . hardly perceived" on this side of the Atlantic, broke out in a convulsion. Feudalism, long pronounced dead by historians, flamed into barbarous life and in a day, as it seemed, became reincarnated in the Imperial German Empire. The convulsion came, and it persists. Cosmos trembles as in primordial days when continental masses folded upward from the deep. Monarch after monarch abdicates. Out of the cataclysm emerges world democracy through which, under God, men shall no longer exist for states but states shall exist for men.

Stirred, but undaunted by the events of the hour; calmly appraising the principles involved and the gigantic forces in motion; without hysteria and without ostentation; deliberate in judgment and unswerving in purpose, the bar is ready for the honorable performance of its duty to the country, even as in colonial days when gentlemen in queues, many of them lawyers, subscribed a certain declaration of independence, highly obnoxious to the prerogatives of kings.

Because the useful activities of the country must go on if we are to successfully sustain the war, and because the foundations of our industrial future must be continuously constructed if we are to escape misfortune after the war, we perceive that the battle line reaches

every fireside; it is not "somewhere in France" alone, but here and now, laden with pressing duties for every man.

It may not be untimely to observe that the bar as a body shares with the army and navy the guardianship of the flag, for the flag is the bar in the same sense that it is the armies and the fleets. The flag symbolizes fair trial in the courts as truly as it represents heroic action on land and sea. All instrumentalities of justice—practice and procedure, constitutions and statutes, text-books and decisions, rules, trials, records, arguments, briefs, the right of review, the final judgment—are woven into its fabric. It is the humblest juror and the highest court. It speaks all the wisdom of our laws, all the intelligence of bench and bar, from Judge John Marshall's day to this. From Belgium, from France, from vexed Atlantic lanes, its mandatory signal comes back to us, its ministers of justice, commanding that the confessed crimes of an imperial outlaw receive such sentence before the judgment seat of nations, that law and order shall be reestablished upon the rock of international conscience, sustained, not by supine protest, but by supreme power, now and for all time.

There can be no turning back. We must prepare for world events. To lead we must know the way.

It is not enough today that a lawyer be a psychological naturalist—not enough that he can identify a motive by its tracks, stalk hidden facts, or trace an elusive principle to its den in printed leaves. True, he should be a student, but he must not permit the dust on his books to absorb the red blood in his veins. He must cultivate broadened sympathies and espouse new faith in "the saving grace of common sense." He must rectify his vision to conform to the clearer light. He must realize that law is closely analogous to a living, growing organism—not a bed of fossiliferous remains. He must say to his library: I bow to you, my books, out of respect for your tested worth and present authority; like the statue of a child, you are the fixed expression of a changing form; you are memory, but I am vision; you are history, but I am construction; you are guideboards upon traveled ways over which men pass to the frontiers of thought.

Always at the end of the beaten path pioneer juridical concepts struggle for existence. How may we best aid them? In general most powerfully, perhaps, by the quiet performance of daily professional duties; by trying more cases in the office and fewer in the courts; by making settlement of controversies when reasonable settlement is possible; by stipulating undisputed facts and shortening trials; by preventing improvident appeals; by speeding up the machinery of the law office, which is a part of the machinery of justice; by stronger demand for ethical practice; by exerting out united in-

fluence toward less and better legislation, and by fostering fraternal relations among the members of the bar.

If bar associations, local, state and national, served no other useful purpose, they might fully justify their existence by the improved relationships which they bring about among the members of the profession. But they do more. Strong local bar associations, acting diligently and in concert with the state bar association supply the best means, if not the only means, by which the bar as a body may make its efforts speak. In inter-state and national matters, the state bar associations should co-operate with the American Bar Association, which represents, or should be made to represent, the unselfish, united power of the 100,000 lawyers of America.

The local bar association of a city, county, or judicial circuit is a quasi-university from which no lawyer may profitably absent himself. Even the oldest may not with safety fall away from his brethren, for to do so invites isolation. The busy practitioner at the height of his intellectual power places a limitation upon his advancement when he ceases to be actively interested in the progress of his fellows. The young lawyer, opulent of theory, finds the active local association a clearing house of problems, where he may advantageously exchange the fire of enthusiasm for the light of experience. Thus the local bar association ministers to every member according to his needs, and serves the supreme purpose of building men.

The bar is the preparatory school of the bench. Every lawyer is a potential judge, and whether or not he ever attains judicial honors, he must daily, in his practice of the law, exercise judicial functions. Suits brought must be first tried in the office, and in hundreds of his cases that never reach the courts, every lawyer must sit in final judgment. If, as we believe, the administration of justice is the keystone of our governmental structure, the development of the bar is an effective act of patriotism.

We cannot do too much for our country. If, as we fondly hope, the United States is to be accepted as the model form of democracy, we must leave nothing undone to make good our claims in the eyes of all nations. In this the bar has a part to perform. Never before has so much law been in the making. Every state in our Union is a legislative experimental station; in every civilized country systems are undergoing swift and fundamental change. England, for the emergency of war, has set up what may be termed a commission form of government. There a few able and devoted men have become, not the power behind the throne, but the power *above* the throne. A new Russia is being forged under the hammer of titanic events. The same is true of China, and perhaps, of Germany.

The interdependence of civilized nations is at last understood. Nations one with us in spirit are no longer foreign countries. Iden-

tical purposes speak a common language. An alliance for war is to become an alliance for peace. A new international law is to be born. The united faith and strength of free nations is to assure the inviolability of treaties. "Scraps of paper" are to be respected, and no nation shall be permitted to revert to its primitive savagery at command of a dominant, criminal will.

There has been an awakening. Craft in the air and under sea, the last stand of feudalism, the propaganda of "frightfulness," piracies fit for the darkest ages, sacrifices worthy mankind's noblest ideals, death in new forms and dreams of new liberty stir the imagination of mankind.

In these cataclysms, the bench and bar must steadfastly remain the gyroscope of government, the stabilizer of society. We must meet and master new conditions. The privilege of leadership must be bought and paid for in personal sacrifices. The authors of the American constitution had no greater opportunity, for while force and arms shall "make the world safe for democracy," no influence save good laws wisely administered can keep democracy safe for the world.

## OUR INCREASING NATIONAL AND INTERNATIONAL RESPONSIBILITIES.

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HON. ATLEE POMERENE, U. S. SENATOR FROM OHIO.

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The United States is a world power. We are a world power whether we wish it or not. We cannot escape its responsibilities if we would, and we would not if we could. Nations, like men, cannot live unto themselves alone. Destiny has marked out our course. The fathers of the Republic builded wisely, but I cannot conceive that even they knew to what end their first steps would lead in making history. The peals of Liberty Bell have rung round the world. The shot at Bunker Hill was but the precursor of the thunderous roar of the cannon of democracy at Verdun.

In 1776, the democracy of the thirteen colonies pitted itself against the divine right of King George III. Now the democracy of the world is engaged in a life struggle against the divine right of Kaiser Wilhelm. The democracy of the thirteen colonies did not fail; the democracy of the world will not fail.

On August 1, 1914, civilized mankind was appalled to learn of the declaration of war and the beginning of hostilities. Christian nations could not believe that causes so trivial as those which seemed to divide Austria and Serbia would lead to a world cataclysm.

At first blush, it would seem that even in its widest ramifications, the clash of giant European nations ought not reach to the far-off shores of America. But he who entertains such a thought fails to take into consideration the changed conditions since first our nation had birth.

Then we were thirteen separate colonies with three millions of people. We occupied a comparatively narrow strip along the Atlantic seaboard. We were more than 3,000 miles distant from Europe and a journey of more than thirty days. Then our people could have been blotted off the face of the earth and the rest of mankind would scarcely have been sensible of the loss.

How changed the situation now. Our three millions have multiplied to 110,000,000; our thirteen colonies, to forty-eight empire states; our

foreign commerce which in 1830 amounted to one hundred forty-four million dollars, has multiplied by leaps and bounds until it reaches annually the stupendous sum of more than six billions. The thirty days' trip across the waters has been reduced to six. The surplus productions of our farms and factories and mines find their way to the four corners of the earth. Our people, seeking new outlets for trade, are to be found in every clime and every nation. And no fate can befall any one of the family of nations without seriously affecting our own welfare.

If my address shall today seem to depart from the beaten path which is usually marked out for those who may have the honor to appear before a convention of lawyers, the only excuse that I shall offer is that we are living in the most momentous day of the world's history; that lawyers always have played and always will play a leading part in the public and political thought of the nation and that now we, as members of the legal profession, like men in every profession, in every line of business, and in every trade, are giving our first efforts to the solution of the problems which are engrossing the attention of mankind to the end that reason may resume her sway and peace be restored to the world.

The purpose of our national existence was—and is—in the language of the Constitution:

"To form a more perfect union—establish justice—insure domestic tranquillity—provide for the common defense—promote the general welfare—and secure the blessings of liberty to ourselves and our posterity."

In the light of our national history and the events of the last three years, let us consider what we have done and what we ought to do in the future, both from a standpoint of power and policy:

## POWERS OF THE NATION.

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I take it everyone will concede that, as a member of the family of nations, we are clothed with the full powers of sovereignty. Defining our position from a political standpoint we are as great, but no greater than any other nation clothed with equal privileges and equal powers. If we were not we would be less than sovereign, and that no true American ever would admit. Considered from a domestic standpoint, we have a divided sovereignty, state and national, but the national government under the constitution gives us full and plenary power to do whatever the wisdom of the nation may require, so far as our international affairs are concerned.

The President is given the power, by and with the advice and consent of the Senate, to make treaties, and the only limitation upon this power is that he can make them "provided two-thirds of the Senators present concur." Under this power, independent of the question of national sovereignty, we have made treaties with every nation of the world, defining and controlling our political and commercial relations, and when it pleased our purposes we modified them or abrogated them entirely. We have made treaties of peace and arbitration for the amicable adjustment of international disputes. Every conceivable phase of our international powers and relations have at one time or another been dealt with in our sovereign or constitutional capacity.

The power, therefore, to do that which we have done or which we may hereafter do, whether considered from a standpoint of national sovereignty or from the defined authority of the Constitution, cannot be questioned. As indicating the judicial view of our sovereign powers the case of *Williams versus Suffolk Insurance Company*, 13 Peter, 415, is interesting. The Court says:

"Can there be any doubt that when the executive branch of the Government which is charged with our foreign relations, shall in its correspondence with a foreign nation assume a fact in regard to the sovereignty of any island or country, it is conclusive on the judicial department? And in this view it is not material to inquire, nor is it the province of the court to determine, whether the executive be right or wrong. It is enough to know, that in the exercise of his constitutional functions he has decided the question. Having done this under

the responsibilities which belong to him, it is obligatory on the people and government of the Union."

#### OUR POLICY.

But when it comes to a consideration of the policies which we have pursued up to date, or which we may adopt hereafter, there is, or may arise, serious differences of opinion.

It has been a part of our political philosophy that we should "avoid entangling alliances with foreign countries."

Washington, in his Farewell Address said:

"Europe has a set of primary interests, which to us have none, or a very remote relation. Hence, she must be engaged in frequent controversies, the causes of which are essentially foreign to our concerns. Hence, therefore, it must be unwise in us to implicate ourselves, by artificial ties, in the ordinary vicissitudes of her politics, or the ordinary combinations and collisions of her friendships or enmities."

"Our detached and distant situation invites and enables us to pursue a different course."

Again, in this message, he added:

"It is our true policy to steer clear of permanent alliance with any portion of the foreign world;" but he added significantly, "so far, I mean, as we are now at liberty to do it."

And again in this same message, he says:

"Taking care always to keep ourselves by suitable establishments, on a respectable defensive posture, we may safely trust to temporary alliances for extraordinary emergencies."

"Safety first" seemed to him then to be the law of our national life and it ought to be our rule of conduct now.

#### THE MONROE DOCTRINE AS IT INFLUENCES OUR NATIONAL LIFE.

The Government of the United States was the first real experiment in democracy in modern times. Europe recognized the divine right of kings—America, the divine right of the individual. Our thoughts, our acts, our traditions—our entire history—have been a constant effort and tendency toward the development of democratic government. Except the encouragement that we received from France during the War of the Revolution, the energies of every European government were directed against the birth of democratic influence in the Old World, and for the most part, toward the throttling of democratic tendencies in the New World. The dominating trend of European thought upon this subject reached its climax in the organization of the Holy Alliance in Paris, by which Prussia, Austria and Russia united "to defend religion and morality as what they believe

to be the only sure foundation for them—government by divine right." About the same time, or soon thereafter, the monarchy was restored in France and at the Congress of Verona they resolved, "That the system of representative government is equally incompatible with the monarchical principles as the maxim of the sovereignty of the people is with the divine right." And these nations engaged "mutually and in the most solemn manner to use all their efforts to put an end to the system of representative governments in whatsoever country it may exist in Europe, and to prevent its being introduced in those countries where it is not yet known." Apparently, this language was so framed as to have no direct reference to the United States, but whatever its purpose may have been, the language was comprehensive enough to voice opposition to the fundamental principles of a republican or representative government in South America or wherever else attempted.

The fathers of the republic, as well as the statesmen of our early history, were exceedingly jealous of the system of government we had established in this country and were determined to protect it by all reasonable means within their power.

Spain was struggling to continue her possessions in America. Russia was seeking to extend her domain along the Pacific Coast, and France was looking with eager eyes to Mexico.

Our experience with the monarchical governments of the Old World were so unhappy that the Government of the United States sought by every means to protect itself against the extension of the political systems of the Old World to the American continent. The prevailing sentiment of the early part of the 19th century was crystallized into what later became known as the Monroe Doctrine. For the purposes of this address, it will not be necessary to go into the preliminary history leading up to the pronouncement by James Monroe but it will suffice to quote from him the following extracts:

First—"The American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers."

Second—"In the wars of the European powers, in matters relating to themselves, we have never taken any part, nor does it comport with our policy so to do. . . . . The political system of the allied powers is essentially different in this respect from that of America. This difference proceeds from that which exists in their respective governments. And to the defense of our own which has been achieved by the loss of so much blood and treasure and matured by the wisdom of their most enlightened citizens and under which we have enjoyed unexampled felicity this whole nation is devoted."

"We owe it, therefore, to candor and to the amicable relations existing between the United States and those powers to declare that we should consider any attempt on their part to extend their system to any portion of this hemisphere as dangerous to our peace and safety. With the existing colonies or dependencies of any European power, we have not interfered and shall not interfere, but with the governments who have declared their independence and maintained it, and whose independence we have on great consideration and on just principles acknowledged, we could not view any interposition for the purpose of opposing them or controlling in any other manner their destiny by any other European power in any other light than as the manifestation of an unfriendly disposition toward the United States."

It may be urged that the nations of Europe and of South America are distinct sovereignties and, therefore, they have the right to control their own relations without let or hindrance from the United States. Within certain limitations, this is true, but experience has taught us to be on our guard against European aggressions whether aimed at our country directly, or indirectly by their encroachments against neighboring peoples in America, similarly situated and organized. Our real purpose is not to interfere with the affairs of any nation so long as it respects our rights at home or abroad. Under the Monroe Doctrine, our purpose is not to impose ourselves upon South America or unnecessarily to interfere with the relations between those countries and the governments of the Old World. The whole nation, in the language of Monroe, is devoted "to the defense of our own." The extension of the European systems in this hemisphere was believed "dangerous to our peace and safety," and hence we declared very frankly because we believed it necessary to our defense to say to the world, that "any interposition for the purpose of opposing" the independent nations of America by any European power would be regarded "as a manifestation of an unfriendly disposition toward the United States."

Later a dispute arose between Great Britain and Venezuela over the boundary line between Venezuela and British Guiana. Secretary of State Olney demanded arbitration of the claims of Venezuela and in discussing the Monroe Doctrine, said:

"That distance and 3,000 miles of intervening ocean make any permanent political union between a European and an American state unnatural and inexpedient can hardly be denied..... The states of America south as well as north, by geographical proximity, by natural sympathy, by similarity of governmental constitutions—are friends and allies commercially and politically of the United States ..... Today the United States is practically sovereign on this continent and its fiat is law upon the subjects to which it confines its interposition..... There is, then, a doctrine of American

public law well founded in principle and abundantly secured by precedent, which entitles and requires the United States to treat as an injury to itself the forcible assumption by a European power of political control over an American state."

This doctrine, of course, was denied by Great Britain, but it represented the view of America that it was necessary for our own protection. It must be borne in mind that the United States is at all times a sovereign people, and it is at all times necessary to defend this sovereignty. No student of American institutions would for a moment attempt to defend our interference in the relations between two sovereign powers unless, in his judgment, the exigencies of our national security required it.

President Cleveland said in this same controversy:

"The Monroe Doctrine finds its recognition in those principles of International Law which are based upon the theory that every nation shall have its rights protected and its just claims enforced."

If, then, during our earlier history when we were comparatively small, our limited intercourse with other nations required the promulgation of the Monroe Doctrine for our safety, ought we not now, when we are confronted by other and even graver dangers, to stand ready to defend that doctrine, and even to extend the application of the principle of this doctrine if the legitimate defense of American institutions should seem to require it.

Should not our international cares and concerns keep pace with our growth as a nation and the extent of our commercial and political relations abroad, and the corresponding necessity to protect them?

We have always been very careful not to become involved in international matters which do not concern ourselves. We have been so very careful in this respect that even in the ratification of the Hague conventions the Senate consented to them, subject to the declaration made by the delegates of the United States before signing them that "nothing contained in this convention shall be so construed as to require the United States of America to depart from its traditional policy of not intruding upon or interfering with or entangling itself in the political questions of policy or internal administration of any foreign state; nor shall anything contained in the said convention be construed to imply a relinquishment by the United States of its traditional attitude toward purely American questions."

And I assume that this principle of non-interference in the affairs of Europe and of our opposition to Europe's transgression in the affairs of America is still the dominating conviction of the intelligent American thought. But it must follow that when the administration of other nations is so conducted that it encroaches upon American rights, whether on land or at sea, they will become the object of our careful concern to the end that America and American institu-

tions shall be respected everywhere; and the extent to which we may be subjected to their aggressions will be the measure of our respectful attention to them.

#### EFFORTS TO MAINTAIN PEACE.

Our Government has never sought war. It has always aimed to maintain the peace of the world. Soon after hostilities began, the President, on behalf of this great American republic, tendered his good offices to the belligerent powers, hoping and praying that some plan might be devised whereby the awful slaughter could be brought to a close, and there was not a day from that time until the Congress passed the joint resolution declaring a state of war that we were not ready to aid in the restoration of peace. Our commerce was interfered with by both Great Britain and Germany. Great Britain having more regard for her military necessities than for her observance of her obligations to ourselves, continued to disturb our shipping, but promised indemnity wherever damage was done, and in many instances has paid it. Germany not only interfered with our commerce, but by her methods of warfare sank our ships, as well as other neutral and enemy ships, having on board our people, and sent to an untimely grave non-combatants, women and children, who were aboard. This was done without warning or notice, and without caring for the safety of those aboard, in violation of every principle of international law since history began.

When the *Lusitania* was destroyed on the seventh day of May, 1915, by order of the German Admiralty, the German press reported that a German submarine had sunk the "armed cruiser *Lusitania*" and the Berlin authorities gave a half holiday to the children in the schools to celebrate the great victory, thus making it an occasion for rejoicing. The instincts of humanity ought to have suggested the dropping of a tear for the innocent lives that had been lost and for those at home who had been bereaved.

After long delay, and an exchange of many diplomatic notes over this incident, the German Imperial Government admitted that she was wrong and America was right. On the fourth of May, von Jagow, Secretary of State for Foreign Affairs, advised our government that the German naval forces were given the following orders:

"In accordance with the general principles of visit and search and destruction of merchant vessels recognized by international law such vessels, both within and without the area declared as naval war zone, shall not be sunk without warning and without saving human lives, unless these ships attempt to escape or offer resistance."

While there is a reservation in this note under which their former methods might be resumed in the event that we did not succeed in getting Great Britain to comply with the demands of Germany, every-

one felt that a great diplomatic victory had been won and that the German Imperial Government, having recognized the rule of international law, would not resume its violation. It now transpires that the Kaiser's real purpose was to delay this method of warfare until his submarine fleet could be completed and then it would be renewed with a ruthlessness and frightfulness unprecedented.

Finally, without any previous notice of his intention, on the 31st day of January, 1917, when his submarine fleet was ready, notice was given that one day thereafter the former methods of warfare would begin and all ships met within forbidden zones would be sunk.

These zones include the seas around Great Britain, France, Italy and the Eastern Mediterranean. They cover an area through which nine-tenths of our American shipping must pass. By this order American and neutral shipping was only permitted to navigate the Mediterranean Sea through a lane twenty miles wide leading to Greece. We can not go to Italy or France. We can only go to Holland, Denmark, Norway and Sweden by sailing very far north. The barred zone in the Atlantic is about 1,400 miles long and 1,000 miles wide, and to Great Britain after February 1st, 1917, the German Imperial Government munificently provided that regular American passenger steamers could continue to sail undisturbed if the port of destination was Falmouth, if the course of sailing was via the Scilly Islands, and if the steamers should be marked:

"On ship's hull and superstructure 3 vertical stripes 1 meter wide each to be painted alternately white and red. Each must show a large flag checkered white and red, and on the stern the American national flag."

The boats were to be well lighted throughout and one steamer a week could sail in each direction to arrive at Falmouth on Sunday and to depart from Falmouth on Wednesday, and no contraband should be carried.

Could any American with red blood in his veins and the memory of his fathers fresh in mind, submit to this arbitrary rule by a military despot who for years has been obsessed with the belief that the entire human race was intended for his despotic sway and whose sole code of morals is the rule of might?

In the course of all these outrages, the President was very patient and would not permit himself to believe that, in this age, the German Imperial Government, after admitting its former course was in contravention of every principle of international law, would resume the same methods of warfare. But experience has demonstrated that while the German Imperial Government has advanced in every field of art and science, it has forgotten the Decalogue and the Sermon on the Mount. What were a hundred million of people to do? Surrender the freedom of the seas for which they fought the war of 1812?

Abjectly submit to this would-be-arbiter of the world? Or were we to speak like a nation of freemen who have faith in right and justice as among all the peoples of the world? Could we continue at peace with such a nation and maintain our self-respect? Do we not know that Great Britain and France and Italy and the other allies are fighting the battles of humanity—our battles as well as theirs? Is it possible that any American does not have pride enough in his heart to say "We cannot and must not allow these allies to fight our battles without taking part and going to the trenches if need be to stand shoulder to shoulder with them while fighting for the freedom of the world?"

What manner of man is this German Kaiser? When Mr. Bryan was Secretary of State, he negotiated, and the Senate ratified, twenty-nine peace treaties, the purpose of which is to bring about settlements of international disputes without resorting to the arbitrament of arms. The Kaiser was approached and asked to sign a similar treaty with the United States. His reply was in substance—"Why should I sign such a treaty? I have an army that is strong enough to take what I think it is right for me to take."

#### GERMANY IN THE PRESENT WAR.

For more than forty years succeeding the Franco-Prussian War, the House of Hohenzollern pretended to be working for the preservation of the peace of Europe. All that time she was building her armies and her navies for a world conquest. The question with her was not "Shall we begin the war?" It was, "When shall we begin it?"

All the allies have given to the world their diplomatic correspondence with one another and with the Teutonic Nations, leading up to the war. Germany, Austria and Turkey, in a conspiracy to destroy the world's peace, never published their correspondence. They have conducted the war with a cruelty and a brutality characteristic of the mediaeval ages. Beneath a veneer of civilization, the German Imperial Government has concealed the savagery of the Hun and the Goth. It has been worse than Indian savagery. It is scientific savagery.

The controversy between Austria and Serbia was seized upon by the Kaiser as a pretext for doing what he had been years preparing to do. He pretended to be for peace. Serbia conceded all the demands of Austria save one. The Czar of the Russians asked the Kaiser to submit that single question to arbitration at the Hague. It, Serbia, could not grant without surrendering her sovereignty. The Kaiser ignored his treaties with Belgium, declaring them "scraps of paper." He invaded Belgium's territory, then admitted his wrong, then promised Belgium indemnity after the war was over. But still continues to occupy the little Kingdom, and now the German press

speaks of annexing it. He deports Belgium men, women and girls and practically enslaves them. His navies sink our ships and the ships of neutrals and enemies alike, without warning and without caring for the lives and safety of the passengers and crew. He bombarded the undefended towns and cities of Scarborough and Hull, and other municipalities and with his Zeppelins in the night season drops bombs and explosives upon sleeping men, women and children. He takes the territory of neutral nations, their live stock, their food supplies. He destroys their orchards and their gardens and leaves the innocent people to suffer the pangs of starvation, and hunger. He knows the arts and sciences, but he has not learned the golden rule. He scattered his spies in every city and town of our country while we were at peace. His Embassy was the plotting place for the destruction of our manufacturing plants and of our transportation and shipping facilities. While enjoying our hospitality, he violated our neutrality. The Kaiser's emissaries in this country were constantly, and are now, sowing seeds of dissension among our people. They attempted to make our people believe that we were violating international law by manufacturing and selling arms to the allies, while everyone knows, if he cares to know, that it was the Kaiser's determined stand at the Hague which more than any other one influence led to the continuance of the practice of allowing a neutral nation to sell arms to belligerents in any war. And everyone knows, who cares to know, that for more than twenty-five years, Germany has been selling arms and munitions to every belligerent in every war, including Spain and the United States in the Spanish-American war.

While professing the greatest friendship for us, the German Imperial Government has lost no opportunity to embarrass us. During our war with Spain she sought to induce the European powers to aid the cause of Spain against us and had it not been for the friendly attitude of Great Britain, she might have succeeded.

I shall not take the time to discuss the conduct of the German fleet at Samoa or of Admiral Diederichs' squadron in Manila Bay, or in Subig Bay, or the Kaiser's determination to take possession of the ports in Venezuela, an account of which has recently been given by Colonel Roosevelt.

#### THE PRUSSIAN DOCTRINE OF THE STATE AND WAR.

In the discussion thus far, we have seen that the German Imperial Government has been guilty of all sorts of barbarities, both on land and on sea. Military necessity seems to be the only limitation placed upon its operations, if indeed military necessity even has placed any restrictions upon them. No military man within my knowledge has been able even to suggest any military advantage which has been

gained by the repeated Zeppelin outrages in Great Britain, and particularly in London. They have killed few soldiers. They have destroyed by their bombs innocent women and children and non-combatants.

It may be claimed that the military and naval operations have been so vast in extent, so intensive and for so long a period of time, that men have lost their poise, and because of the nervous condition thus brought about, they have been tempted to do many things in many ways which otherwise would not have been thought of or indulged in. I wish this explanation could be truthfully made, but it cannot be. The present conduct of the war is but the result of past and current teachings. When the Kaiser violated the neutrality of Belgium, he conducted a campaign of "frightfulness," to use a word which appeared in all the German literature bearing upon the subject. He aimed to terrorize. But even this course was not the result of immediate military necessity. It was but the natural outgrowth of the teachings of the German Imperial Government's foremost political thinkers covering a period of years.

One of their most cherished writers is Heinrich von Treitschke. Let me quote somewhat at length from his work on "Politics." Consider the following:

"Without war, no state could be. All those we know of arose from war and the protection of their members by armed force remains their primary and essential task. War, therefore, will endure to the end of history, as long as there is multiplicity of states. The laws of human thought and of human nature forbid any alternative. Neither is one to be wished for." That is the thought of medievalism.

Again,—

"The great strides which civilization makes against barbarism and unreason are only made actual by the sword. Between civilized nations, also, war is the form of litigation by which states make their claims valid. The arguments brought forth in these terrible lawsuits of the nations compel as no argument in civil suits can ever do. Often as we have tried by theory to convince the small states that Prussia alone can be the leader in Germany, we had to produce the final proof upon the battlefields of Bohemia and the Main."

To him, most undoubtedly, as he says, "war is the one remedy for an ailing nation."

We can understand the Kaiser's methods when we remember that Treitschke says approvingly:

"It was Machiavelli who laid down the maxim that when the state's salvation is at stake, there must be no inquiry into the purity of the means employed. Only let the state be secured and no one will condemn them."

When Belgium was invaded, the German statesmen admitted their

wrong, but they have not made restitution. The American code of morality will not permit the American mind to sanction this course of conduct.

Another brief extract from Treitschke permits us to get the Imperial German Government's viewpoint. I quote:

"In the year 1849, the thrones of all the little German princes tottered. Frederick William took a perfectly justifiable step when he marched Prussian troops into Saxony and Bavaria, and restored order there. But then came his deadly crime. Were the Prussians there to shed their blood for Bavaria or Saxony? An enduring gain ought to have been secured for Prussia. She held the pigmies in the hollow of her hand. It was only necessary to leave the troops there until the rulers had submitted to the dominion of the new German Empire, but instead the King simply allowed them to withdraw, and was mocked by the princelings he had rescued, the moment his back was turned. That was no less than idiotic weakness, and Prussian blood was shed to no purpose."

Recently a German officer, Rentelin, was convicted in the United States District Court of New York. The evidence in brief showed that with German gold he hired men to dynamite manufacturing plants, bridges, property of public service corporations, and hired men to incite strikes against employing companies. He was connected with the German Embassy in the United States, whose every member, from the Ambassador down, should have been inspired by a moral sense so high as to forbid the violation of our hospitality. It shocks the American conscience, but we will not be surprised if we remember the further teachings of Von Treitschke. In speaking of the negotiations between the French Minister Benedetti and Bismarck, prior to the Franco-Prussian war, he says:

"Was he (Bismarck) not acting morally in the fullest sense when he put off Benedetti's impudent demands with half promises of Germany's agreement? Under the same conditions of latent war we may use the same arguments to defend the bribery of another state. It is absurd to bluster about morality in the face of such circumstances or to expect a state to confront them with a Catechism in its hand. Before the outbreak of the Seven Years' War Frederick had a premonition of the storm about to burst over his little Kingdom. He bribed two Saxon-Polish Secretaries in Warsaw and Dresden, and received information from them which happily proved exaggerated. When the salvation of his noble Prussia hung in the balance, should King Frederick have boggled over a respect for the incorruptibility of officialdom in the Principality of Saxony? Every state knows what it may expect of the other. There is not one which would not stoop to spying when circumstances require it. It is only important not to overrate the value of the methods which must be permitted to

the Foreign Office of every great nation, for the role they play is not an important one."

Listen further to this teacher of Government morality. He says:

"The statesman has no need to warm his hands with snug self-laudation at the smoking ruins of his fatherland and comfort himself by saying, 'I have never lied.' This is the monkish type of virtue."

Now we understand the famous Zimmerman note which he sent on January 19, 1917, from Berlin through the German Ambassador in the United States, von Bernstorff, to the German Minister at Mexico, von Eckhart. He tells von Eckhart that on the 1st of February, the German Imperial Government intends to begin submarine warfare unrestricted. They will endeavor to keep neutral the United States, in spite of this. If they are not successful in this course, they propose an alliance with Mexico to make war together and together make peace. They promise financial support, and it is understood that Mexico shall reconquer the lost territory in New Mexico, Texas and Arizona. The German Minister in Mexico is instructed to inform the President of Mexico of this plan in the greatest confidence, and when war breaks out, if it does, with the United States, the President of Mexico is urged to communicate with Japan and to offer to mediate between Germany and Japan.

Some few people—a very few people—feel that we could have avoided going into this war. To my mind, it was inevitable. A contest between the German Imperial Government and the United States was only a question of time. That the gauge of battle should be thrown down now when we have the assistance of our allies seems providential. Germany's attempt to intrude herself in our affairs with Spain during the Spanish war and in the Philippines, coupled with the repeated declarations by German officials and newspapers that an indemnity would have been demanded from the United States because we allowed our nation to sell arms and munitions to the allies, and their constant trampling upon our rights at sea, ought to be sufficient to forewarn us, and to forearm us, particularly when we have in mind the fate of the smaller nations that have stood in the way of the ambitions of Teutonic Militarism.

Here again we can learn from von Treitschke.

Germany must "see to it that the outcome of our next successful war must be the acquisition of colonies by any possible means." And note especially his view of the humbler peoples of the world. I quote:

"The civilizing of a barbarian people is the best achievement. The alternatives before it are extirpation or absorption. The Germans let the primitive Prussian tribes decide whether they should be put to the sword or thoroughly Germanized. Cruel as these processes of transformation may be, they are a blessing for humanity."

Again,

"We may depend upon the re-Germanizing of Alsace, but not of Livonia and Kurland. There no other course is open to us but to keep the subject race in as uncivilized a condition as possible, and thus prevent them from becoming a danger to the handful of their conquerors."

Von Treitschke does not stand alone in the expression of the sentiments just quoted. His has been the dominating thought in the German Imperial public mind for many years.

"War," says Frederick the Great," opens the most fruitful field to every virtue."

Again, he says,

"War is elevating because the individual disappears before the great conception of the state."

Another great German writer who has impressed himself upon the thought of the German world is Bernhardi. In his "Germany and the Next War," published in 1911, he says:

"The agitation for peace introduces a new element of weakness, dissension and indecision into the divisions of our national and party life."

"Our people must learn to see that the maintenance of peace never can, or may be the goal of a policy. The policy of a great state has positive aims. It must not only be conscious that in momentous questions which influence definitely the entire development of a nation, the appeal to arms is a sacred right of the State, but it must keep this conviction fresh in the national consciousness. The inevitableness, the idealism, and the blessing of war, as an indispensable and stimulating law of development, must be repeatedly emphasized. The apostles of the peace idea must be confronted with Goethe's manly words:

"Dreams of a peaceful day?  
Let him dream who may!  
'War' is our rallying cry,  
Onward to victory!"

Again, he quotes approvingly Schiller:

"Man is stunted by peaceful days  
In idle repose his courage decays.  
Law is the weakling's game,  
Law makes the world the same.  
But in war man's strength is seen  
War ennobles all that is mean;  
Even the coward belies his name."

But it is not necessary to quote more at length from Bernhardt. His conclusion is, (and I quote his words):

"If we sum up our arguments, we shall see that from the most opposite aspects, the efforts directed toward the abolition of war must not only be termed foolish, but absolutely immoral, and must be stigmatized as unworthy of the human race."

Repeating for the purpose of emphasis, we are at war with a nation which, for forty years, has been preparing itself for world conquest. Its vast armament on land and sea has been and is a menace to the democracy of the world. While its people have perfected themselves in many of the arts of peace, it has only been an incident to the war power—the power of the State. The individual has lost his identity and he has become a part of a vast military machine. Periodically, since the war of 1870, there have been constant rumblings of a breaking of the peace in Europe. In later years, they have extended to the American Continent. With the German Imperial Government we are now at war. There is as much conflict between its political ideas and ours as there is or will be between its arms and ours. It has set out for world conquest. Our American Government is now threatened by this Military Autocracy to a greater extent than we were ever threatened by any Foreign Power in attempting to colonize any part of the American Continent. If the promptings of national safety have been a sufficient motive for us to defend the Monroe Doctrine since it was first enunciated, the same principle of national safety compels us to have due regard to other dangers equally hostile to our sovereignty, whether they be located here or in Continental Europe. World Democracy and World Autocracy are at war. World Autocracy whether in arms or as doctrinaire, cannot and will not harmonize with World Democracy. In the forceful language of Senator Root,

"The world cannot live half Democratic and half Autocratic. It must be all democracy or all Autocracy."

It must be and it will be! Do not misunderstand me—I do not, for one moment believe that we ought to interfere with the purely domestic affairs of any other nation on earth, but gentlemen, when in the administration of its domestic affairs by any government, it so conducts them at home or abroad as to be a constant menace to the peace of the world, the same sentiments which inspired us to fight for our liberties in 1776 must lead us now in the world conquest in 1917. For the safety of our national sovereignty, we announced and have defended the Monroe Doctrine. For the same reason, we entered into this war. For the same reason, we will continue in it until we shall win. For the same reason, we must take our seat at the council table and lend a hand in drafting the terms of peace.

What shall be our program then? In this great world catastrophe,

it is not given to the human mind to see, a year or even a month in advance, what the duty of the hour may require. "Sufficient unto the day is the evil thereof."

But this much I believe:

First. We ought to use all our powers of moral suasion to induce the nations of the world to adopt a policy of gradual disarmament. Most of the civilized nations have favored this program for years. Germany, and Germany alone, has opposed it. As a result, while Germany was adding to her forces on land and on sea, the other nations of the world, half suspicious and yet half deceived by Germany's siren song of peace, were only either half prepared or not at all prepared when the trumpet call to battle sounded. The world's peace cannot be safe when one nation is fully armed and the others only partially armed. That every nation should be fully armed or even half armed is a waste of men and of treasure. Why then, should we not, in the interest of safety, use the good offices of this great government to bring about disarmament? It should not be within the power of Germany or any other government to threaten the safety of the world.

As we persisted in our efforts for world peace before this world war began, so after the war shall have been ended, we must still continue the battle for peace by diplomacy, by negotiation, by arbitration, rather than by force of arms.

Second. What further measures shall be adopted? Shall there be a League of Peace, and if so, with what powers shall it be vested? That something along this line must be attempted is apparent. May be it will not succeed; may be it will fail, but certain it is, it cannot be a greater failure in the maintenance of peace than past methods. If there is a League of Peace empowered to enter decrees, after full investigation and full hearing, by what power shall they be enforced? My belief is that the power of the world's public opinion will, in most instances, be sufficient to enforce decrees which are impartially entered. Will it be necessary to employ armies and navies subject to the control and direction of the League of Peace? These are questions which must be entrusted to the President of the Republic, by and with the advice and consent of the Senate, under the guidance of true American sentiment. These are questions which are approaching us and which we must meet. Those in authority will welcome and profit by the advice of the world's thinkers everywhere, and I know of no body of men who can be of more service in this great task than the lawyers of America.

But whatever shall be done, if it is to be of profit to the nation and to the world, must be undertaken by the practical minds of the world, and not by visionary dreamers and theorists. Statesmen must take counsel of fact, not of fiction. A pound of fact is worth a ton

of theory. America cannot build a Chinese wall about her, and thus confined, perform its functions and play its part on the world's great stage. Destiny calls America to lead, and she will lead, taking counsel of the world's wisdom. We must not be affrighted because a hundred millions of people in 1917 must play a more important part in world affairs than did three millions of people 140 years ago.

"There is a divinity that shapes our ends  
Rough hew them how we may."

## THE COST OF PUBLIC JUSTICE.

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PROF. JOHN R. ROOD, ANN ARBOR.

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"There are few Englishmen who will not admit that English law, in spite of modern improvements, is neither so cheap nor so speedy as might be wished. Still it is a system which has grown up among us. In some points it has been fashioned to suit our feelings; in others, it has gradually fashioned our feelings to suit itself. Even to its worst evils we are accustomed; and therefore, though we may complain of them, they do not strike us with the horror and dismay which would be produced by a new grievance of smaller severity.

"No Majratta invasion has ever spread through the province such dismay as this inroad of English lawyers. All the injustice of former oppressors, Asiatic and European, appeared as a blessing when compared with the justice of the Supreme Court. Every class of the population, English and native, with the exception of the ravenous pettifoggers who fattened on the misery and terror of an immense community, cried out loudly against this fearful oppression."—Macaulay's Warren Hastings.

The common citizen who becomes victim of a wrong and seeks redress in the courts of America soon finds by bitter experience that it is better to bear those ills we have than go to law. The expense is more than the thing is worth. The result depends on who has the longest purse, the most endurance, and the shrewdest lawyer, and little on the merits of the case. When he gets to court he finds his remaining money is being spent, not in the trial of his case, but in deciding whether an *absque hoc* is a *sine que non*, or some similar piece of jugglery. And if in the end he is so fortunate as to succeed in this haphazard game of chance he finds in settling that he who wins loses; but, worse than that, he is disappointed even in his hope that the results of the affray will partly recoup his losses. For when he offers the court's judgment to prove his right he is solemnly informed that it amounts to nothing, because the notice of trial was too short, an affidavit or bond not according to statute, or some rule of the game violated. I have with some care examined the last volume of the American Annual Digest, and it appears that about

three-fifths of the matter in the volume relates to procedure, evidence and other rules of the game. This volume is a fair sample of the others. It is the same old story.

If the decision could be ascertained by an application of the rules of the game it might not be so bad; but even that is not so. An investigation of the cases in a recent volume of the decisions of the supreme court of Michigan, which averages fairly with the rest, and with the decisions of other courts, shows that 37 decisions were reversed and three modified, out of 103. The first guess of one court seems to be about as good as the last guess of another except that every new trial adds to the expense.

The cost of judicial proceedings under our complicated and antiquated system practically closes the doors of our courts to the great mass. Even the part of the expenses which the parties have to pay is more than the matter in contest, and as effectually denies them a day in court as an explicit enactment to that effect would. Closing the doors of justice to the people closes the doors of business to the lawyer. The lawyers are responsible for the continuance of the system, are justly held accountable for it by the people, and suffer more from it indirectly than the public does directly. If the cost of prosecuting my lawful claims in the courts is more than the claims are worth, I am recompensed by the fact that the cost of prosecuting claims against me is also more than the claims are worth; and if I am a good and bold bluffer I win as much as I lose. But the lawyers, on the other hand, lose at both ends.

I greatly dislike to say sensational or unpleasant things, and to guard against exaggeration and make sure that I am well within the facts, I have made a careful analysis of the business of the circuit court for Washtenaw county for the year 1916, that being the county in which I reside, and as I believe a fair sample of the situation throughout the state. By the official journal kept by the clerk of the court it appears that the court was in session as follows in the year 1916:

	Criminal	Law	Chancery and Motions	Total
January, days in session.....	1	3	8	12
February, days in session.....	1	1	17	19
March, days in session.....	6	11	8	25
April, days in session.....	1	0	19	20
May, days in session.....	2	16	5	23
June, days in session.....	1	1	21	23
July, days in session.....	0	0	0	0
August, days in session.....	0	2	19	21
September, days in session.....	0	0	25	25
October, days in session.....	1	0	25	26
November, days in session.....	2	0	22	24
December, days in session.....	3	8	13	24
Grand totals .....	18	42	182	242

From the same journal it appears that during the year the following judgments and decrees were entered in civil cases:

Without contest—

That mortgage was outlawed and barred.....	6
Judgments by default at law .....	3
Judgments by confession in court.....	5
Voluntary non-suit .....	12
Total .....	26

Contested cases—

No cause of action.....	12
Judgment for plaintiff .....	14
as follows:	
Ordering common council to issue saloon license.....	3
Ordering payment of accrued alimony.....	1
For damages .....	10
Total number of contested cases.....	26

Grand total of all judgments for damages rendered by the court during the year.....\$20,237.65

Which included one award in eminent domain proceedings amounting to ..... \$2,275.00

One negligent injury judgment against the street railway Co. for..... 12,000.00

And eight other judgments totaling..... 5,962.65

Leaving out the first two, the total of the money judgments rendered

would not pay the judge's salary, to say nothing of the other expenses of operating the court.

That this stagnation is due to our system of justice breaking down by its own weight, and not to the lack of need for mediation, is shown by the fact that this small total is recorded in a county having 50,000 inhabitants, property assessed at \$50,000,000, and that the bank clearings in one town in the county were more than \$17,000,000 in the year 1916.

It is not conceivable that any such sum should represent the real need for adjustment of major civil differences in a year, in such a community.

But someone will say, your figures are not fair, because most cases are compromised before trial and never appear in the judgment roll at all. I ask no better proof of my indictment. If submitting a matter to the judgment of the court is so terrible an ordeal or so expensive that parties with a real and honest difference submit to a forced settlement rather than take the judgment of the court the system stands convicted at the outset.

Some of the items of circuit court expense paid by the taxpayers are:

Judge's salary .....	\$6,000.00
Court reporter's salary .....	1,800.00
Annual warrants for jury fees .....	7,606.96

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Total .....\$15,406.96

To which should be added part of the following:

County clerk's salary .....	\$2,000.00
County clerk's deputy .....	1,000.00
County clerk's clerk .....	600.00
Deputy sheriff .....	1,000.00
Repairs on courthouse .....	354.80
Courthouse janitor .....	800.00
Lights and fuel for the year.....	2,962.04
4% on the market value of the courthouse square	
@ \$50,000 .....	2,000.00

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Total .....\$10,716.84

Charging  $\frac{1}{3}$  of which to holding court is..... 3,572.28

Which would make the taxpayers' share of the cost of  
keeping circuit court per year.....\$18,979.24

If half of this is charged to the jury days in court, the cost of one day in the circuit court with a jury paid by the taxpayer is \$153.16.

But the taxpayer stands only a fraction of the cost of the suit. The parties and their witnesses have to pay:

1. Two lawyers on a side, one case on trial and one waiting call, twice as much labor in preparing for trial as in trying the case, fees \$25 per day each—total cost per day for lawyers .....\$625.00
2. Lost time of the parties to attend, one on a side, one case on trial and one waiting call, and as much time preparing for trial as in trying the case, time worth \$10 per day..... 80.00
3. Cost and lost time of witnesses, four on a side, one case on trial and one waiting call, time worth \$5 per day..... 80.00

Total cost of a day in court to the parties and witnesses...\$785.00  
 If to this we add the cost of a day in court to the taxpayer 158.16

The total cost of a day in court is.....\$943.16

The fact that this cost of a day in court is in most cases much more than the difference between the parties, practically amounts to a denial of justice; and forces them to adjust their differences out of court as best they can, with God always on the side of the long purse.

I trust that I have shown that the great defect in our legal system is that justice costs more than it is worth; but I can not pass this topic without a remark to avoid unwarranted assumptions. This cost of justice is due to the system and not to the men administering it. Our judges are able and upright, diligent, worthy, and well qualified. The business, moral, and ethical standards of our lawyers are not excelled by any profession, trade, or calling. They do not over-charge for their work. I am not aware of any profession requiring such elaborate or expensive apprenticeship for admission and paying such modest returns to its members for services performed.

If you agree with me that public justice as now administered is so expensive as to amount to a practical denial of relief in most cases, we may for a minute turn our attention to the causes of the expense. Here I think there is no room of argument. The causes of expense are:

1. The number of persons required to make a decision, and that they must assemble at one time and place and wait each other's turn. These persons are judge, reporter, clerk, sheriff, jury, attorneys, parties, and witnesses.
2. The right of parties to be heard in person or by attorney at each step, to produce, examine, and cross-examine witnesses and accumulate evidence without limit so long as it has any relation to the controversy.
3. The number of steps and processes required to reach a decision: complaint, plea, demurrer, hearings, repleading, appeals, and new trials.

How much of this expense is unavoidable? Must justice now be

more expensive than it was when nails, shoes, cloth and other things were made by the slow hand process; when it took six months to travel from Chicago to New York and as long to get a reply, which today is flashed in the twinkling of an eye? Only in the administration of justice is the slow and expensive process of the Dark Ages still in vogue. What sane person would use court methods of investigation in his affairs? What corporation, public or private, could survive adopting them?

To speak of the last cause of expense first, efforts to simplify the procedure have been made in this state and elsewhere, and constitute the main attempts to solve the problems up to the present time. If pleadings ever served the theoretical purpose of informing the opposite party of the nature of the cause of action or defense, they long since ceased to perform any such function; and I venture the opinion that exception was never taken to any pleading for any reason other than to obtain some ulterior advantage over the other party, such as delay, abatement of the action, seeing the opponent's cards, showing by example to prospective suitors that it does not pay to try to call this party to account in the courts, and the like.

The conclusion is: Make exception to the pleadings unprofitable and such exceptions will cease.

Whatever can be done to simplify procedure is a step in the right direction; but the evil is deeper than that, and requires more drastic remedy. Another and more effective means of cheapening justice is to limit the right of the party to be heard and to produce and examine witnesses. This suggestion produces a gasp of horror on your faces. But why should it shock? If you are not accustomed to such action by courts you are familiar with it in other governmental bodies. The legislature, board of supervisors, city council, and town-meeting, vote appropriations and cause them to be levied and collected by taxes on my property without giving me any notice or opportunity to be heard. The tax assessor raises the valuation on my property without any notice to me, and the courts answer my contention that my property is confiscated by assessing it too high, saying that someone must appraise and the assessor's decision is final. The police order my house or machinery destroyed as a nuisance, without giving me hearing or compensation, order my choice breeding animals shot and buried in the same summary manner, and the courts tell me this is not taking property without due process of law. The highway commissioner closes the road while I am on the way and tells me to go around, giving me no notice, no hearing, no chance to testify. The railway and livestock commissions close the stockyards and markets and prohibit my shipments to my embarrassment and bankruptcy, and I am told no notice, no hearing, no testimony are necessary, and that I am entitled to no compensation. The

health officer puts me and my family in close confinement in my own house without trial or opportunity of defense. I go abroad to visit my ancestors, and on my return am excluded by the immigration commissioner, on such investigation as he sees fit to make, without giving me a hearing or right to produce evidence according to the accustomed court procedure, and I am told by the courts that the legislature has properly authorized the commissioner finally to determine my case without giving me any opportunity at all to be heard. I am charged with a criminal offense, demand trial by my peers, and am told by the courts that the legislature has properly excluded all persons of my political faith, religion, sex, age, and race from all juries. I am drafted to serve in the army where my life is periled, without right to jury trial as to my exemption from liability to service. If upon my trial in any case, civil or criminal, the court errs outrageously, accepts jurors prejudiced against me, convicts me on hearsay evidence, rules out the only evidence on which I hoped to obtain an acquittal, and finally charges the jury contrary to the law and the evidence, I am told by the courts that I have no constitutional right to appeal or new trial. All the rules I have stated are established by decisions too numerous to mention, well known to you all, and I will not weary you with citation. If all these things are reason and due process of law, why may not the decision of what and how many witnesses shall be called, and whether any or what argument shall be heard, be taken away from the parties and left to the discretion of the court? And why should not that be done to expedite and cheapen justice, and that too with regulations that would insure that the court was not too liberal in extending the inquiry? As it costs more today to adjudicate the matter than the controversy involves, it is not so important how the case is determined as it is that it is decided. The only value in court decisions today is to end the dispute, all that certainly could be accomplished at much less cost with the restrictions I have suggested, and with quite as much prospect of reaching a correct conclusion. I would favor steps being taken in that direction.

I come lastly to the first class of reasons why justice is expensive; and here it is we find the great items of expense, and the reason why the expenses more than exhaust the fund involved. It is the army of men our system of law requires for the decision of a case: Judge, jury, reporter, clerk, sheriff, parties, attorneys, witnesses; twenty-five to fifty men required to do what could be done better by one or two at one-hundredth of the cost.

The judge we must have; but why should he be selected from the inhabitants of the community, bound to them by the ties of blood, fraternity, and business, affecting almost every case that comes before him by some sort of relationship to one or both of the parties—

friendships, prejudices and indirect interests. No judge should ever be permitted to hold court in the county in which he resides, nor twice in any year in the same county. The work of the judges should be assigned to them individually from term to term by some central officer, for example, the chief justice of the supreme court. Such is now the law in some states, I believe; and I am told it pleases everybody but the judges; and I believe even the judges would be content if to this were added a tenure of office which relieved them from the humiliation and expense of standing for reelection at such short intervals. To ask a man with an established business to give it up to accept a place on the bench, and then requiring him to stand for reelection almost before he has familiarized himself with the duties of his new office is neither fair to him nor good for the public.

Now, as to the jury. This too we must have; for throughout all its history the jury has been found the most satisfactory device to protect against special interest, oppression, and class-rule, that has ever been discovered. It is the most effective means of making the law as administered in the courts reflect public opinion and the common sense of justice. No other means has been found of guaranteeing that special interests and classes will not become entrenched in the courts and impose their will on the people by that means. We jeer and joke on juries and verdicts, but they remain our best bulwark and guarantee of liberty. And yet why should it be a jury of twelve or of six. Frankly, I believe a jury of one would be as good or better and far cheaper. It is here that I believe the great stroke could be made to make justice cheap. Let the jury panel be made up as at present, then let each party alternately strike out one name till but one name is left; then let that man be the jury unless excused by the court on challenge for cause; in which case a new panel or veniremen might be enrolled to make a new jury.

Next as to the attorneys. I am profoundly convinced that one of the chief reasons why justice is expensive is the fact that parties are permitted to have men selected and paid by them, men specially trained and skilled in the game and the rules of the game, appear for them, speak for them, examine witnesses, and control the course of the proceedings. These men are not interested in having justice done. They are employed and paid to see their client win, win on the merits if convenient, win by technicality if need be, but win, at all events win. Their compensation in large measure depends on their success. Their reputation and future in even greater degree depend on it. Instead of being aids in arriving at justice they are a positive hindrance.

You all know how worthless expert testimony is. And why is it so? Merely because the parties are permitted to have men of their own selection, in their private pay, create erroneous impressions by testi-

lying to half the truth. Half the truth is a lie. Colored and biased influences have no just place in our courts of justice, whether they be attorneys or expert witnesses.

The difficulty is in permitting any person interested in the result of the case to have anything to say as to the conduct of the proceedings, whether he be party or agent for a party. The cure is to select a jury as I have indicated, then to require the court to appoint some person skilled and learned in the law, who shall be in the pay of the court and of the court only, as the assistant of the jury and the court, and guilty of bribery if he receive any compensation directly or indirectly from either party, who shall be liable to challenge as a juror would be for interest, prejudice, etc. This referee will proceed with the jury to visit the place involved in the controversy, call upon the witnesses named by either party as being able to testify, and other persons if they see fit, examine them so far as the referee and the jury deem desirable to get at the truth, and no further; the referee will give the jury such assistance as may be desired; and finally the jury will report to the court his finding of the facts; the referee will report to the court his finding of the law; with the facts as found by the jury and the law as found by the referee, the judge will take the case under advisement, make such further investigation into the law as he deems necessary, and enter judgment in the case, which shall be final and conclusive unless appealed from.

To sum up what I have said: If you would make justice cost less than it is worth, throw pleadings and procedure to the winds. They never assisted in arriving at practical justice, and have been the tools and instruments of technicality, delay and defense against just claims since the days of King Edward I. Next, take from the parties the right to be heard in person or by attorney or to have anything to say as to how the trial shall be conducted, what or how many witnesses shall be examined, or what or how many questions shall be asked. This will strip the case of unessentials and expediate the conclusion. Instead of an army solemnly assembled at one place at an expense greater than the amount in controversy, let two persons, the referee and jury, go about visiting the witnesses to ascertain the facts and law and report them to the court, and the administration of justice will take on new life. People will take their differences to the court for settlement. Do these things, and public justice will be cheap and fair to rich and poor alike, the long purse will cease to control the result, the business of the lawyer will wax great beyond his wildest dreams, and the name of the lawyer will be blessed in the land.

1871-1872

## RESOLUTION ON DEATH OF JUDGE ROLLIN H. PERSON.

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To the Michigan State Bar Association:

The undersigned committee hereby submit the attached testimonial upon the life and character of the late Judge Rollin H. Person, and recommend its adoption by this meeting.

June 30, 1917.

L. E. KNAPPEN,  
A. C. DENISON,  
GRANT FELLOWS.

Which resolution was by a rising vote unanimously adopted.

Rollin H. Person, late president of this Association, and Justice of the Supreme Court of this State, departed this life at the city of Lansing on June 2, 1917, at the age of 66 years. Judge Person had lived a busy and useful life. He prepared for admission to the bar in the office of Dennis A. Shields, in the village of Howell, Livingston county. A few years succeeding his admission to the bar were spent in the state of Nebraska, from which state he returned to Howell and engaged in the active practice of his profession until the year 1891, at which time he was appointed Circuit Judge by Governor Winans. He remained on the bench until December 31, 1899. He then returned to the practice of his profession, having in the meantime removed to the city of Lansing. He continued his private practice until August, 1915, when he was appointed a member of the Supreme Court to succeed the late Justice McAlvay. He remained a member of the Supreme Court until January 1, 1917; when he resumed the practice of his profession at Lansing, as a member of the firm of Person, Thomas, Shields & Silsbee. During all the years of his active life he was interested in public questions and public affairs. He always displayed a deep interest in the work of this Association, and advocated the highest ideals of the profession. As a Circuit Judge, he was careful, painstaking and patient. As a member of the court of last resort, he was faithful, able and industrious. His opinions demonstrated his breadth of thought and his learning in the law. As a citizen, his time and efforts were directed to good government and good citizenship. As a lawyer he was always faithful to the interests of his client, conscientious in his advice and painstaking in the presentation of his cases. We deplore his untimely taking off; we revere his memory; and commend his life and his ideals to the profession.



## TRIBUTE TO HON. ROLLIN H. PERSON.

BY EX-GOVERNOR WOODBRIDGE N. FERRIS, BIG RAPIDS.

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By all means choose America for your birthplace. This is the country in which every robust child has an opportunity for developing his best possibilities. Better than that, this is the country that urgently invites the development of one's best possibilities. I am not hinting that there is any virtue in poverty. I am, however, sure that there is no virtue in the possession of great wealth. Both abject poverty and great wealth are as a rule handicaps in life's struggles. Fortunate, however, is the man who is born under conditions that demand voluntary effort, conditions that involve personal responsibility. U. S. Grant revealed his greatness through the responsibilities placed upon him in the Civil War.

Rollin H. Person was fortunate in his personal inheritance, his father was a farmer who had taught rural schools successfully. Sixty years ago the winter terms of many rural schools were taught by men. This was the time of year when the big boys had little to do on the farm, consequently they attended school, not always for the purpose of acquiring knowledge, sometimes for the purpose of thrashing the teacher. Many of these men teachers were sturdy, inspiring instructors. These men, half a century ago, made valuable contributions to all-round, common sense education. The son, as a boy was inspired and encouraged by his father to acquire an education. I have no information concerning his mother. I do know that it is absolutely safe for me to say that she was a noble woman, because up to the present hour I have never met a great man who did not have a great mother.

At the age of ten. Mr. Person, with the assistance of a younger brother, took charge of his father's farm. This was due to an accident which incapacitated his father for doing active farm work. For most boys this experience would have been disastrous. He attended rural school winters and this, combined with the encouragement and assistance of his father kept the fire of ambition burning.

At the age of nineteen, he secured a teacher's certificate. As a school teacher he was not satisfied with meagre attainments. He was a natural-born worker and learner. At the age of twenty-one he received a first-grade teacher's certificate. This shows conclusively that he was studiously ambitious. After receiving this educational recognition, he was appointed deputy Register of Deeds. This did not

satisfy his ambition. He therefore entered the law office of Dennis Shields and began studying for his chosen profession. He was fortunate in his choice of a legal preceptor. Dennis Shields had the rare gift of awakening and wisely directing young men to a full realization of what studying law meant. This is exemplified in the success of Dennis Shields' three sons, two of whom have become successful lawyers. In fact, Livingston county seems to have been set apart for rearing lawyers and politicians.

In the fall and winter of 1872-73 Mr. Person attended the law school of Michigan University. He paid his way by "husking corn, splitting wood, tending fires and cleaning sidewalks." A large part of this work was done for ex-Governor Felch." I realize that "now-a-days" this kind of educational hunger is not characteristic of the well-to-do American. No substitute has been found for this hunger. Education that is regenerative and constructive, involves vigorous effort—usually real self-sacrifice.

In 1873 he was admitted to the bar. In the same year he married Miss Ida Madden, of Monmouth, Illinois. No man could have been more fortunate in his combination of circumstances for professional success and happiness. Immediately after his marriage he moved to Republican City, Nebraska, where he was soon made temporary register of deeds of that city. He was recorder of Republican City in 1873-74 and Circuit Court Commissioner in 1874-75.

In 1875 he moved back to Howell, Michigan, where he practiced law until 1891, when Governor Winans appointed him to fill the office of Circuit Judge in the Third Judicial Court. He moved to Lansing and held this office for nine years. He then resumed private practice, contrary to the wishes of his political friends. In 1913 he became senior partner in the law firm of Person, Shields and Silsbee. In 1915 Governor Ferris appointed him to the Supreme Bench to fill a vacancy made by the death of Justice McAlvay. In January, 1917, he resumed private practice in the firm of Person, Thomas, Shields and Silsbee. This briefly is the story of Rollin H. Person's life.

Judge Person was eminently adapted to the profession of law. His mind was so organized that a legal proposition was positively fascinating. He handled law problems in precisely the same way that a skillful geometrician handles mathematical propositions. His mind worked with the precision of a machine gun. Furthermore, he was thorough and painstaking. He was never superficial. Every client received his best service.

During the Michigan Copper Strike I found myself frequently in need of legal advice. With all due respect to other eminent attorneys in Lansing, I turned to Judge Person. He was greater than a lawyer. He was a sociologist. He knew the needs and rights of both employer and employee. His keen sense of economic justice was refreshing.

To Judge Person I owe a deep debt of gratitude. Michigan, likewise, owes him a deep debt of gratitude.

When a vacancy occurred on the Supreme Bench, I had no occasion to hesitate when I appointed Judge Person. The legal profession generally, and even the republican judges of the Michigan Supreme Court were pleased. In this important office he reflected credit upon himself and honor upon the State.

Judge Person possessed the characteristics of a statesman. He was not a political aspirant, nevertheless, he was every ready to serve both state and nation. He was deeply interested in the public welfare of Lansing, Michigan, and the nation. He worshipped at the shrine of human justice.

Judge Person was a great lawyer. His real greatness was manifest to those who worked with him, those who saw him daily, those who knew something of his magnificent manhood. He never paraded his ability or his virtues. He was absolutely incapable of pretense and show. He was the incarnation of modesty and purity. I find myself incapable of adequately expressing my appreciation of his nobility of character. He was especially happy in his home with wife and children about him. In the home we find the real test of true nobility. Rollin H. Person was a magnificent husband and a loyal father. He has left his loved ones priceless memories. In their lives he still manifests the beauty and enduring qualities of his splendid manhood.

He loved his general library. What delight he exhibited in showing me his books, in describing the achievements of great thinkers! He was a constructive thinker and had he turned his talents to the making of books he could have achieved greatness.

Judge Person's life has ennobled the legal profession, has enriched the great State of Michigan, has added luster to American manhood. He believed that he was on the threshold of rendering his greatest service. He died with his colors flying. His was a victorious life.



## RECENT MICHIGAN LEGISLATION OF SPECIAL INTEREST TO LAWYERS.

BY HON. SEYMOUR H. PERSON, LANSING.

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Mr. President and Members of the State Bar Association:—

In the mass of miscellaneous legislation recently considered by the 1917-18 Legislature, it is somewhat difficult to select those particular Acts of special interest to lawyers, for the reason that all legislative Acts are of interest to lawyers and all must, if occasion requires, stand the acid test of the courts. Whatever Act a lawyer is called upon in the course of his practice to interpret is of special interest to him and to the Bar. It is therefore difficult to select from the mass of legislation of any particular Session those Acts that are of special interest to lawyers.

I shall therefore attempt in this brief outline to select those particular acts that have had to do with the organization and jurisdiction of the courts, the powers and duties of the courts, the forms of action, matters of pleading, evidence and practice—in other words, those amendments that have been made to Act No. 314 of the Public Acts of 1915, known as the "Judicature Act," and shall then note those few changes that were made in the substantive law where the recent statute has made a decided change in the previous theories held on the subjects. I shall then discuss a few bills that failed of passage in the recent session, somewhat new in their theories so far as this State goes; a number of which will undoubtedly become laws—perhaps in a modified form—at some future session of the State Legislature.

The recent session of the Legislature was as conservative a body as has sat in this State for many years. It was not given to radical changes of any kind, and outside of the liquor legislation which it was directed by the recent Constitutional Amendment to pass, it made comparative few amendments to existing statutes. Outside of the appropriations and acts caring for the finances of the State, the session laws of 1917 will not be investigated very often by the lawyers of the State, either for the purpose of finding new laws or changes in old ones.

Two exceedingly important commissions were provided for by the recent session and the members of such commissions, after mature consideration, have recently been appointed by the Governor. The first commission, being a budget commission, is authorized to investigate and report to a special or the next regular session a financial

system for the State. This commission is to investigate not only the expenses and requirements of the State and its different institutions, making up the state budget, but it is to recommend a system of expenditure by which the different institutions may co-operate with one another in purchasing supplies and taking care of their maintenance, the idea being to place the financial affairs of the State on an organized and thoroughly business basis.

The second commission is a commission to investigate and report to a special or the next regular session on the subject of railroad passenger fares, the last two sessions of the Legislature having refused to make any guesses on this subject or to pass any bills establishing a legal railroad passenger fare without being in possession of some exact facts and figures on which to base its action.

If these two commissions report in time and the Governor sees fit to call an extra session, the present members of the Legislature will undoubtedly be called upon to act upon two of the most important subjects that have been before the Legislative Body of this State in 20 years.

I submit that they have acted properly in both instances in referring the subject to scientific experts and in delaying action until such experts have investigated and reported.

## AMENDMENTS TO THE JUDICATURE ACT.

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Sections 45, 46 and 47, Chapter 1, were amended, giving the Justices of the Supreme Court power to employ clerical help and pay therefor an amount of \$1,500 a year.

Section 41 of Chapter 2 was amended by giving to Wayne county four additional circuit judges.

Two new sections, each, through some error, numbered 46-a, are added to this Chapter, giving Jackson county and Genesee county each an additional circuit judge.

Section 14, Chapter 3, is amended to provide for the appointment of deputy probate registers with compensation to be fixed by the Board of Supervisors.

I myself introduced a bill in the House, which passed, amending Chapter 15, by adding two new sections to stand as the sections 11 and 12. This act is an amendment to those sections of the Judicature Act, providing for set off and recoupment, and provide that hereafter where an action is brought to recover damages for the alleged negligence of the defendant, the defendant may at the time of filing his plea also file a cross declaration, by which he seeks to recover from the plaintiff for the alleged negligence of the plaintiff arising out of the occurrence forming the basis of the plaintiff's action. It is then provided that if the general issue is interposed to the plaintiff's declaration, and the defendant's cross declaration, both causes of action shall be determined in the same trial or proceeding. A demand for a jury by one shall be deemed a demand for both, and the jury shall decide both issues, returning a verdict for plaintiff or defendant, as the case may be. This act undoubtedly brings about the only change in procedure that occurred in the last session.

Instances have undoubtedly arisen in the experience of every active practitioner in negligence cases, and especially in cases arising on the public highways from collisions of automobiles, in which each party claims that the other party is at fault, while he himself is without fault. Under the provisions of this amendment, it will be possible, with the proper pleadings, to try both issues out upon a submission of all the facts, allowing the jury to find the negligent party and giving the damages where they belong. Most of the Code States provide for such a result, and for the filing of such pleadings under the term "Counterclaim."

Section 82 of Chapter 23 was amended by a provision that in all

suits hereafter begun by the filing of a bill in aid of execution, the complaint shall make a *prima facie* case by introducing in evidence the judgment against the principal defendant, the execution with the levies thereon and proof of the conveyance or conveyances complained of. Thereupon, the burden shall be upon the judgment debtor, or the persons claiming through or under him, to show that the transaction was in all respects *bona fide*.

Section 25, Chap. 30, is amended to provide that no writ of restitution shall issue in the case of a proceeding upon executory contract for the purchase of real estate until the expiration of 30 days. It then provides that such writ of restriction, in the case of executory contracts for the purchase of real estate, and the return of service thereon, may be recorded in the office of the Register of Deeds of the proper county, and when so recorded shall be notice to all persons of the termination of all rights of defendant in or to such lands or tenements.

Section 12 of Chapter 40 is amended by re-introducing into the law the machinery left out by the revisors in compiling the Judicature Act in reference to the winding up of a mining corporation, it being the contention of Mr. Peterman, who introduced the amendment, that the procedure as provided by the Judicature Act, with the provisions formerly included left out, was not sufficient to properly wind up such a corporation.

Section 2 of Chapter 48 was amended by increasing the fee of a sheriff when in attendance upon court, by order of the court, to \$2.50 a day.

Section 1, Chapter 50, in reference to writ of errors, is amended so that a writ of error only issues of course when the judgment exceeds the amount of five hundred dollars; when the judgment is five hundred dollars or less, then a writ of error only issues at the discretion of the Supreme Court upon proper application. This is a radical change in the present procedure, the advisability of which is very much doubted. As for myself, I see no more reason why the right to appeal should be dependent upon the amount involved any more than upon the color or the age of the litigants.

Section 5 of Chapter 58, allows a minor above the age of fourteen years of age, residing more than ten miles from the place of holding the Probate Court, to nominate his guardian in writing, such nomination to be certified by a Judge of Probate, Justice of the Peace, Township Clerk, or a Notary Public.

These are all the changes made to the Judicature Act.

The compensation of Circuit Court stenographers was increased in the following circuits: 1st, 3d, 4th, 7th, 9th, 10th, 13th, 17th, 20th, 21st, and 24th.

Some three or four amendments to the Judicature Act failed of

final passage, all of which passed the House but for some reason were not reported out of the Judiciary Committee in the Senate. I am inclined to think they were the most important amendments submitted and should have been passed. The first one was an amendment to Section 49 of Chapter 13, being the section providing for the mailing by registered mail of a copy of an order of publication to the last known address of the defendant. The amendment provided that such court may in its discretion provide that such copy need not be mailed as to certain or all defendants.

An amendment to Section 53 of Chapter 18 provided that no exception need be taken to the decision of the court in refusing a motion for a new trial, but error may be assigned on such decision as if exception had been made, according to the practice heretofore in use. This apparently covers an omission inadvertently made in the Judicature Act.

An amendment to Section 15 of Chapter 65 provided that when the probate judge shall certify to the circuit court any contest over the allowance or disallowance of a will, the probate court may appoint one or more special administrators to take charge of the estate. This apparently was an omission in the Judicature Act, inadvertently made; the Judicature Act providing that such appointment might be made when an appeal is taken from a decree admitting or denying the will to probate, but omitting to provide that such appointment might be made when the probate judge certifies such a contest.

An amendment was proposed to Section 9 of Chapter 52, providing for the waiver of the service of papers in probate court "provided that such notice be waived in writing by all the parties in interest and upon such waiver being filed the court may proceed at once upon the filing of a petition to hear and determine the same."

These amendments all failed of passage. They all seemed to be amendments covering subjects merely formal in their nature and seemed to have been omitted by accident or mistake by the compilers of the Judicature Act. They will undoubtedly be favorably considered at some future session.



## ACTS OF INTEREST TO THE BAR, NOT AMENDMENTS TO JUDICATURE ACT.

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An act was passed for the clearing of titles as to dower interests. It provides that all persons having or claiming dower, whether inchoate or consummate, in all lands disposed of more than 25 years prior to the time this act shall take effect, shall, within six months after this act takes effect, file in the office of the Register of Deeds in the proper county a claim of dower under oath.

Section 2 provides that any person failing to file such claim, within the time limited, shall be forever barred from asserting or claiming dower in such lands.

An act was passed raising the compensation of petit jurors to \$4 per day and \$2 per half day.

An act was passed providing that when a bond is required in any justice court, it shall be lawful for the party from whom the bond is required to deposit cash in lieu thereof.

An act was passed removing the common law disability of married women to make and enter into contracts in reference to the joint property of husband and wife, and providing for the enforcements of judgments and decrees as against such joint property and the crops, rents and profits thereof. Section 2 of said act provides as follows: "Hereafter married women shall be possessed of the power and capacity and it shall be competent for them to bind and make themselves jointly liable with their husbands upon any legal instrument as hereinafter provided. Such instrument shall contain a statement that no undue influence or constraint has been exerted against the wife in the execution thereof." Section 3 provides: "Hereafter the real estate of husband and wife owned by them as tenants by entirety, or the real estate acquired by either as survivor of the other, shall be liable to seizure and sale on execution in satisfaction of any judgment which has been recovered against the husband and wife jointly on any instrument signed by both on which such husband and wife have been found jointly liable." Section 4 provides that such judgment shall be enforced as now provided by law except "that where the liability is sought to be enforced against the joint real estate or crops, rents and profits, the judgment or decree shall recite and the court shall determine whether such judgment is rendered upon a written instrument and whether the parties defendant were at the date of the delivery of such instrument husband and wife, which recital of fact, shall be endorsed upon

the writ of execution and shall be conclusive against the husband and wife." Several rather important amendments were made to Act No. 232 of the Public Acts of 1903, known as the general incorporation act. The first amendment raises the limit on authorized capital stock to 50 million dollars. The act as originally introduced placed no limit on the amount of authorized capital stock. As finally passed, however, it limited such stock to 50 million. The preferred stock section is amended to provide that in the issuing of preferred stock the corporation may provide that such stock shall, in addition to the fixed dividends hereinbefore provided, also participate equally with the common stock in any dividends which the corporation may at any time declare after there shall be declared and paid upon such common stock a rate equal to that paid upon the preferred stock. It is provided also that corporations shall be controlled by the Board of Directors elected by the preferred and common stockholders excepting when otherwise provided in the Articles of Association or amendments thereto.

A new section, known as Section 39, is added to the incorporation laws, the meaning of which I do not know and cannot even guess, and the purpose of which I can only imagine. It seems to provide for the finest holding company that was ever conceived, and apparently legalizes holding companies in this state providing they are organized in accordance with this section of the statute. Section 39 provides: "Any three or more persons who are heirs at law or heirs at law and beneficiaries under the law of any deceased person, desiring to become incorporated for the purpose of holding the assets, real and personal, of an estate, and in connection therewith for (of) holding stock in any corporation existing under the laws of the State of Michigan or any other State; also for the purpose of incorporation, as provided in section one of this act, may by complying with the provisions of this act, become a body politic and corporate."

The session of 1915 directed the Attorney General of the State to codify the insurance laws of the state and present such a code to the next session. This work was ably done by the Attorney General and was presented to the session of 1917. The code was passed. It involves very few radical changes in the general insurance law, but organizes the provisions in reference to insurance organization, administration and control, eliminates many duplications and in some essentials takes care of the growth of insurance generally. Previous to the passing of this code, it had been the custom, whenever a new subject for insurance arose, to pass a new act authorizing such incorporation. There were, as the result of this practice in this State, some 20 statutes authorizing the incorporation of some 20 different classes of mutual insurance companies, each act a repetition as to the formal parts of incorporation and administration. Besides that,

a general act for the organization of mutual insurance companies, being a uniform act as now in force in some 20 different states and drawn by Insurance Commissioner Eckern of Wisconsin, was added to the bill and has become a law. The investments allowed to both old line and mutual insurance companies were broadened and they were allowed to invest a somewhat larger fund in real estate for office purposes. The only radical change in the general administration of insurance was the power given to the Insurance Commissioner to suspend the rate as charged by a company if too low or too high and to substitute therefor a just and adequate rate, this to be done upon proper hearing and subject to appeal to the courts. This act of the Legislature recognizes insurance as a public utility, provides for uniformity of rates upon the same class of risks and gives the State the power to regulate and control the rates to be charged for the different risks. It seemed to the committee in charge of insurance legislation that this power in the Commissioner would relieve the situation from criticism that has developed in reference to the anti-discrimination act of 1915.



## ACTS THAT DID NOT PASS.

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Among the interesting acts that failed of passage was one providing for a salary, during the term of his natural life, to any man who had served as circuit judge for 25 years and attained the age of 70, the same to be paid to him from the time of his vacation of the office.

An act to provide for domestic relations division of the circuit courts.

An act to provide for a public defender in criminal cases.

An act to provide for the payment of damages by the State to those confined in penal institutions and afterward acquitted or proved to be innocent beyond the shadow of a doubt.

Two bills, endorsed by the State Bar Association and the Association of Sheriffs and Prosecutors, failed of passage. One of these provided that sheriffs, under-sheriffs, constables, marshals or police officers, may, under like circumstances as in the case of a felony, arrest any person for the commission of an offense in the presence of such officer, or for the commission of any offense triable in a court of record, or a person for whom a warrant has been issued by any magistrate in this state. The other bill provided that any objection to a prosecution of the sufficiency of a complaint or warrant, indictment or information that may be raised by motion to quash, demurrer, plea in abatement, or special plea in bar, shall be so raised before a jury is impaneled or testimony taken, and if not so raised, shall be deemed waived, giving the court the discretion to entertain such a motion later. These two bills passed the Senate but the House seemed to consider them too radical a change.

Some four or five bills were introduced covering the subject of municipal courts. None of these bills were reported out of committee. They, however, caused the Judiciary Committee, of each house, more trouble than any other subject brought up. There is something radically wrong with our justice court theories as applied to cities with a population of 40,000 or over. From all parts of the State come the same complaints. The machinery as applied to justice courts is thoroughly adequate to take care of the situation in rural communities and places of small population but does not seem to be adequate to take care of the situation where the population is large. This is a problem that must be worked out by some special body interested in the subject, with practical experience and free from political entanglements. It is a subject that could well be considered

by a committee to be appointed by the State Bar Association. The subject will constantly bother every Legislative assembly in the State until settled and never will be properly settled by a legislative body inexperienced in the subject unless that legislative body be aided by such experts as make up the State Bar and unless such legislative body becomes convinced and assured that the recommendations made and the results attained are not influenced by local partisan politics.

The bill introduced, providing for the establishment of a court of appeals, in accordance with the plan of Judge Wiest at Lansing, already discussed before this Association, and the bill, passing the House, limiting the writs of errors as of course to amounts over \$500 and the discussion caused by these two subjects indicate that there is a well developed idea in all parts of the State that something should be done to lessen the work of the Supreme Court and the legislative bodies of the State will constantly be troubled with this subject until it is settled one way or the other, and it will only be settled by some legislation limiting the work of the court of last resort. The plan proposed by Judge Wiest has many advocates in the present House and would undoubtedly pass if the members were assured that it had sufficient outside support. There is a demand for some such legislation and it seems to me that this is another subject on which a committee might well be appointed by this Bar as a non-political body of experts, for discussion and presentation to the next Legislative Session.

I am thoroughly convinced that there is no prejudice against lawyers as an organization in the Legislature of this State and that this Association, each member keeping in touch with the local member in his district, will be able to secure the passage of such legislation as it is able to support by sound reasoning and as seems fair and equitable to those affected and concerned.

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## **REPORTS OF OFFICERS AND COMMITTEES**

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## REPORT OF COMMITTEE ON LOCAL BAR ASSOCIATIONS.

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To the Michigan State Bar Association:

Your committee on Local Bar Associations beg leave to report as follows:

February last President Hamilton addressed a communication to a representative of each judicial circuit throughout the State requesting him, in behalf of the State Bar Association, to accept the chairmanship of a local committee to be selected from among the lawyers of his judicial circuit to be known as a Bar Association Committee whose duties should be:

1st. To form local bar associations where such associations should but did not exist.

2nd. To cause existing associations to become active by means of reasonably frequent meetings and definite programs.

3rd. To cause the respective local associations to send delegates to the annual meetings of the State Bar Association with instructions to present to that body for consideration any measures which the local Bar Association might deem desirable.

On the 10th day of April last, as chairman of the State Bar Association Committee I addressed a letter to the chairman of each local committee requesting a report of the progress made by the respective organizations.

On the 18th day of June I again wrote to the chairman of each local association requesting that a formal report be made by him to the State Bar Association of the condition of his organization. In response to this last communication your committee received reports from the Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Twelfth, Thirteenth, Fourteenth, Seventeenth, Eighteenth, Twenty-eighth, Twenty-ninth, Thirtieth, Thirty-first, Thirty-third, Thirty-fourth, Thirty-fifth, Thirty-sixth and Thirty-seventh Judicial Circuits.

In response to the roll-call of the several circuits these reports will be given by their respective representatives, if present.

The general tone of these reports, both formal and otherwise, are very encouraging and demonstrate beyond question that the attorneys throughout the State more seriously appreciate than at any time in the past the mutual benefit of stronger local and State cooperation.

Respectfully submitted,

COMMITTEE ON LOCAL BAR ASSOCIATIONS,

By Henry F. Jacobs, Chairman.

## REPORTS OF JUDICIAL CIRCUIT CHAIRMEN OF BAR ASSOCIATIONS COMMITTEE.

### FOURTH JUDICIAL CIRCUIT.

County of Jackson.

Jackson Bar Association.

Enoch Bancker, of Jackson.....	President
Lyman Trumbul, of Jackson.....	Vice-President
Fred McGraw, of Jackson.....	Secretary
N. E. Bailey, of Jackson.....	Treasurer

#### Condensed Report.

Thirty members. Hold annual meetings and some special meetings.  
No fixed program. Excellent field for constructive work.

### FIFTH JUDICIAL CIRCUIT.

Counties of Barry and Eaton.

Barry County Bar Association.

John M. Gould, of Hastings.....	President
Arthur Kidder, of Nashville.....	Vice-President
Roy Andrus, of Hastings.....	Secretary
Roy Andrus, of Hastings.....	Treasurer

#### Condensed Report.

Annual meeting held at Gun Lake, attended by members and county officers. Hold meetings infrequently during year. No stated program, except at annual meeting. 20 members. Fine spirit of professional comity prevails.

## SIXTH JUDICIAL CIRCUIT.

County of Oakland.

Oakland Bar Association.

Aaron Perry, of Pontiac.....	President
George A. Suttan, of Pontiac.....	Secretary
George A. Suttan, of Pontiac.....	Treasurer

## Condensed Report.

No stated meetings or prearranged program. Members meet at least once yearly, usually for the purpose of giving a complimentary dinner to some older member of the bar. Twenty-five members. Excellent opportunity for development of vigorous, working organization.

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## EIGHTH JUDICIAL CIRCUIT.

Counties of Ionia and Montcalm.

Ionia County Bar Association.

George E. Nichols, of Ionia.....	President
Alfred R. Locke, of Ionia.....	Secretary
Alfred R. Locke, of Ionia.....	Treasurer

## Condensed Report.

Reorganized in 1916. Expect to hold regular meetings with prearranged annual program 1917-1918. Excellent prospect.

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## NINTH JUDICIAL CIRCUIT.

County of Kalamazoo.

Kalamazoo County Bar Association.

Harry C. Howard, of Kalamazoo.....	President
John W. Adams, of Kalamazoo.....	Vice-President
Charles L. Dibble, of Kalamazoo.....	Secretary
Stephen H. Wattles, of Kalamazoo.....	Treasurer

### Condensed Report.

**Inactive.** Fifty members. Gradually merging into Barrister's Club, a younger organization.

#### Barrister's Club of Kalamazoo County.

John W. Adams, of Kalamazoo.....	President
John L. Hollander, of Kalamazoo.....	Vice-President
Hubbard Kleinstuck, of Kalamazoo.....	Sec'y-Treasurer

**Active.** Twenty-five members. Meetings held monthly from October to May, inclusive. Legal questions discussed, addresses and papers on timely subjects given. Meetings well attended, instructive and enjoyable. Bars of neighboring counties are occasionally invited and entertained. A spirit of helpfulness and friendliness prevails.

## TENTH JUDICIAL CIRCUIT.

### County of Saginaw.

#### Saginaw County Bar Association.

Frank A. Rockwith, of Saginaw.....	President
Bird Vincent, of Saginaw.....	Vice-President
George M. Humphrey, of Saginaw.....	Secretary
John Hopkins, of Saginaw.....	Treasurer

### Condensed Report.

Meets on call of President, but infrequently. No prearranged program for year. Social rather than educational. Sixty-four members. Excellent opportunity for development into vigorous organization.

## TWELFTH JUDICIAL CIRCUIT.

### Counties of Baraga, Houghton and Keweenaw.

#### Houghton County Bar Association.

Jeremiah T. Finnegan, of Houghton.....	President
Joseph F. Hambitzer, of Houghton.....	Vice-President

Albert E. Petermann, of Calumet.....Secretary  
 Albert E. Petermann, of Calumet.....Treasurer

Condensed Report.

Twenty-three members. Meet annually. No program except for annual meeting. May be made a strong organization by a little well directed effort.

THIRTEENTH JUDICIAL CIRCUIT.

Counties of Antrim, Charlevoix, Grand Traverse and Leelanau.

Grand Traverse County Bar Association.

H. C. Davis, of Traverse City.....President  
 Parm C. Gilbert, of Traverse City.....Vice-President  
 George H. Cross, of Traverse City.....Secretary  
 C. D. Alway, of Traverse City.....Treasurer

Condensed Report.

Annual meeting. Social rather than educational. Fifteen members. Has enough live men to become a strong and effective organization.

FOURTEENTH JUDICIAL CIRCUIT.

Counties of Muskegon and Oceana.

Muskegon County Bar Association.

William Carpenter, of Muskegon.....President  
 Willard J. Turner, of Muskegon.....Vice-President  
 Edward C. Farmer, of Muskegon.....Secretary  
 Edward S. Lyman, of Muskegon.....Treasurer

Condensed Report.

Meet bi-monthly. Discuss current measures. Promote public welfare by active work. Hold picnics in summer and bar banquets in winter. 24 members.

## SEVENTEENTH JUDICIAL CIRCUIT.

County of Kent.

Grand Rapids Bar Association.

Willard F. Keeney, of Grand Rapids.....	President
Ganson Taggart, of Grand Rapids.....	Vice-President
Homer P. Bradfield, of Grand Rapids.....	Secretary
David A. Warner, of Grand Rapids.....	Treasurer

Condensed Report.

Meetings held irregularly during year. No fixed policy of educational work. Great opportunity for powerful organization. Two hundred members.

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## EIGHTEENTH JUDICIAL CIRCUIT.

County of Bay.

Bay County Bar Association.

Edward S. Clark, of Bay City.....	President
John L. Stoddard, of Bay City.....	Vice-President
Arthur Sanor, of Bay City.....	Secretary
Arthur Sanor, of Bay City.....	Treasurer

Condensed Report.

Annual meeting and banquet. No program beyond this. Forty members. Excellent possibilities.

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## TWENTY-EIGHTH JUDICIAL CIRCUIT.

Counties of Kalkaska, Missaukee, Wexford and Benzie.

Wexford-Missaukee Bar Association.

Fred S. Lamb, of Cadillac.....	President
Fred C. Wetmore, of Cadillac.....	Vice-President

Condensed Report.

Walter R. Ardir, of Cadillac.....Secretary  
Walter R. Ardir, of Cadillac.....Treasurer

Organized in 1916. Just getting under way. Good prospects for active work.

TWENTY-NINTH JUDICIAL CIRCUIT.

Counties of Gratiot and Clinton.

Gratiot County Bar Association.

George P. Stone, of Ithaca.....President  
C. W. Giddings, of St. Louis.....Vice-President  
John T. Mathews, of Ithaca.....Secretary  
Wm. A. Bahlke, of Alma.....Treasurer

Condensed Report.

Meet quarter-yearly to discuss timely topics. General discussion encouraged. Twenty-two members. Every member of bar of Gratiot County belongs. Unsurpassed leadership.

THIRTIETH JUDICIAL CIRCUIT.

County of Ingham.

Ingham County Bar Association.

Alva M. Cummins, of Lansing.....President  
L. B. McArthur, of Mason.....Vice-President  
Harry A. Silsbee, of Lansing.....Secretary  
Carl H. McLean, of Lansing.....Treasurer

Condensed Report.

Annual meeting held second Monday in December, at which only officers are elected.

The Ingham County Bar Association hold on the last Saturday of each month a noon-day luncheon at which different subjects, proposed by

members, and of interest to the profession, are discussed. No set program for the year is made up. These luncheons are largely attended and have been a great help to the Association in bringing its members in closer touch with one another.

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### THIRTY-FIRST JUDICIAL CIRCUIT.

County of St. Clair.

St. Clair County Bar Association.

Joseph Walsh, of Port Huron.....	President
Clair R. Black, of Port Huron.....	Vice-President
J. F. Wilson, of Port Huron.....	Secretary
Burt D. Cady, of Port Huron.....	Treasurer

#### Condensed Report.

Meetings held monthly from October to May. Timely topics discussed and addresses given by members or by lawyers from other circuits. Forty-five members. A strong working organization.

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### THIRTY-THIRD JUDICIAL CIRCUIT.

Counties of Mackinac, Emmet and Cheboygan.

Cheboygan County Bar Association.

Victor D. Sprague, of Cheboygan.....	President
Homer H. Quay, of Cheboygan.....	Vice-President
James F. Shepherd, of Cheboygan.....	Secretary
W. B. Seamark, of Cheboygan.....	Treasurer

#### Condensed Report.

Numerous meetings held during year. Legal and literary topics discussed. Excellent spirit of mutual helpfulness and friendliness prevails. Every lawyer in Cheboygan County belongs. Leadership unsurpassed.

## THIRTY-FOURTH JUDICIAL CIRCUIT.

Counties of Arenac, Crawford, Gladwin, Ogemaw, Roscommon and  
Otsego.

## West Branch Bar Association.

James B. Ross, of West Branch.....	President
E. M. Harris, of West Branch.....	Vice-President
William T. Yeo, of West Branch.....	Secretary
George Bennet, of West Branch.....	Treasurer

## Condensed Report.

Movement under way to organize every county in the circuit. Meetings are held in West Branch quarter-yearly. Discussion of timely topics. Ten members. Men interested capable of commanding best results.

## THIRTY-FIFTH JUDICIAL CIRCUIT.

Counties of Shiawassee and Livingston.

## Shiawassee County Bar Association.

George E. Pardee, of Owosso.....	President
E. S. Atherton, of Durand.....	Vice-President
E. F. Wilson, of Owosso.....	Secretary
Neil R. Walsh, of Owosso.....	Treasurer

## Condensed Report.

Vigorous young organization. Every practicing lawyer in Shiawassee County (except one) belongs. Meetings are held quarter-yearly. Programs are arranged and timely topics discussed. Lawyers from other circuits, as well as from the local bar, give addresses. Is peer of any association of like age in the State.

## PROCEEDINGS OF

## THIRTY-SIXTH JUDICIAL CIRCUIT.

Counties of Van Buren and Cass.

Cass County Bar Association.

John R. Carr, of Cassopolis.....	President
Walter C. Jones, of Marcellus.....	Vice-President
Asa K. Hayden, of Cassopolis.....	Secretary
Asa K. Hayden, of Cassopolis.....	Treasurer

Condensed Report.

Meet infrequently. No stated program. Fifteen members. Growing activity may be confidently predicted.

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## THIRTY-SEVENTH JUDICIAL CIRCUIT.

County of Calhoun.

Calhoun County Bar Association.

George W. Mechem, of Battle Creek.....	President
James M. Powers, of Battle Creek.....	Vice-President
Laurence E. Gordon, of Battle Creek.....	Secretary
Laurence E. Gordon, of Battle Creek.....	Treasurer

Condensed Report.

Printed programs issued in advance for each year. Meetings held every two weeks from October to June. Stated program consists of paper or address on some legal subject at each meeting, followed by general discussion. All meetings are preceded by a six o'clock dinner. Forty-seven members.

## ADDENDA.

At the annual meeting and subsequent thereto the following reports have been made.

## THIRD JUDICIAL CIRCUIT.

County of Wayne.

Detroit Bar Association.

Frank D. Eaman, of Detroit.....	President
Henry C. Walters, of Detroit.....	1st Vice-President
Arthur Webster, of Detroit.....	2nd Vice-President
Wade Millis, of Detroit.....	Treasurer
Stewart Hanley, of Detroit.....	Secretary

## Condensed Report.

The principal activities of the Association might be divided into two classes:

First—The maintenance of a library; and

Second—The raising of the ethical standing of the Bar.

The library purchased of Detroit College of Law consists of 15,000 volumes. The Association maintains an active Committee on Grievances, which has accomplished a great deal in the way of educating some members of the Bar upon the subject of ethical standards, getting rid of a few who were out of place in the profession, and instituting proceedings to discipline some others who are in need of such procedure.

The active membership is composed of lawyers residing and practicing in Wayne County, and any other lawyer in this State or outside of this State has the privilege of becoming a non-resident member, which carries with it the privileges of the Library.

## THIRD JUDICIAL CIRCUIT.

County of Wayne.

Lawyers' Club of Detroit.

John Faust, of Detroit.....	President
W. G. FitzPatrick, of Detroit.....	Vice-President
Asher L. Cornelius, of Detroit.....	Secretary
Joseph Moynihan, of Detroit.....	Treasurer

## Condensed Report.

The Lawyers' Club of Detroit is an organization composed of lawyers engaged in the active practice of law in Wayne County. Its objects are to promote good fellowship among the members of the bar and to further the interests of the profession.

The Club now has a membership of 515, the Club having experienced a growth of 135 during the past year.

## SEVENTH JUDICIAL CIRCUIT.

County of Genesee.

Genesee County Bar Association.

Zora B. House, of Flint.....	President
William C. Stewart, of Flint.....	Vice-President
Vincent D. Ryan, of Flint.....	Secretary
John F. Baker, of Flint.....	Treasurer

## Condensed Report.

The Association meets the last Saturday of each month at a dinner at which time discussion of affairs of interest to the profession, and also matter of interest locally are discussed. The membership of the Association is about thirty-five members.

## ELEVENTH JUDICIAL DISTRICT.

Counties of Chippewa, Alger, Luce and Schoolcraft.

The counties of Alger, Luce and Schoolcraft are very small and have only three or four practicing attorneys and no bar associations are maintained. Chippewa County has a Bar Association of about twenty-five members which was organized some ten years ago, but fell into inactivity until recently when interest has been revived and the association feels the benefit of meeting together, and it is proposed for the coming year to have a regular program and a regular time for meeting.

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THIRTY-NINTH JUDICIAL CIRCUIT.

County of Lenawee.

Lenawee County Bar Association.

John A. Riley, of Adrian.....President  
Jacob M. Sampson, of Adrian.....Vice-President  
Earl C. Michener, of Adrian.....Secretary and Treasurer

The Association has a membership of forty-one members, who hold an Annual Bar Meeting and an Annual Banquet and an Annual Outing, aside from several special meetings during the year. The Association is active in bringing up matters of importance and interest to the bar.

## REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

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The following report of the Committee on Legal Education and Admission to the Bar was drafted in tentative form by the chairman after correspondence with the other members of the committee concerning the matter to be discussed. The portion relating to the work of the State Board of Law Examiners, commenting upon their work, was prepared by the chairman alone without the knowledge of the other two members of that Board who are also members of this committee. Mr. Lightner, a member of the Board and of this committee, was out of the State at the time the draft was completed and did not see it until after it was presented to the Association.

HENRY M. BATES,  
Chairman.

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### To the Michigan State Bar Association:

The great war unhappily has made its impress upon legal education during the year just ended; but though this result is unfortunate from a purely professional point of view, it has on the other hand afforded an opportunity for the younger men of the profession, and especially those just about to enter it, to show their patriotism and their loyal and courageous adherence to the principles of democracy and the higher standards of civilization. The rush of young men to the colors has seriously affected the work of law schools throughout the country. Probably in a great majority of the law schools seniors in good standing were allowed to go to the training camps or otherwise entered the national service early in May with the assurance that their credits and degrees would be voted to them at the usual time. Not only did this condition of affairs take from the schools many of the ablest and most spirited men, but the general excitement and the serious questioning which students put themselves to as to what their duty required of them inevitably affected the quality of the work to some extent. But no more inspiring exhibition of courage, character, and sense of duty has been given in the history of our nation than that by the fine young men of this generation about ready to enter the bar. Some of the members of this committee have been in peculiar position to

know of the struggles which these men were having to decide what duty required, and then to shape their affairs so as to meet that duty. This meant in the majority of cases the offering of life and all that was most cherished, to the service of the country and of civilization. But this demand was met freely, quietly, but with serious determination by probably as high a proportion of American lawyers as at any previous critical period in our history. Their response to the call of duty has done much to inspire us older men with the belief that the quality of American courage and standards of American manhood have not declined since the days of 1776 and 1861.

It is said that in 1861 the bar of the country responded in greater proportionate numbers to the call of the country for service at the front than did any other profession, and lawyers who then entered military service won high commissions in greater relative numbers than was the case in any other profession. In the present war science in such professions as engineering, medicine, and dentistry plays a greater part than it has played in previous wars; and consequently the members of those professions are likely to be called upon in greater numbers than heretofore, but in technical lines of work. The lawyer today finds no such special need for his services in this great war. With the exception of a few positions in the Judge Advocate's Corps and in administrative work, the lawyer has found that the only thing he could do was to offer to fight in the trenches or upon our war ships now flung around the world. He has met this demand unflinchingly, and there is every reason to believe that the lawyers of this generation will leave as glorious a record as did those of 1861.

The State Board of Law Examiners found itself confronted with a serious and puzzling situation when the call went out for young men to go to the officers' training camps early in May. The April examination had just been held, and it was apparent that there would not be sufficient time to prepare new questions (a most laborious and exacting work), and to send out the requisite notices before the men in the law schools were required to report at their various camps. It was equally clear that a great many men in the law schools of this State and some in law schools elsewhere who were expecting to practice in Michigan would be gathered into these training camps, and that it would be a peculiar and unjust hardship to require these men to take examinations upon their return from military service perhaps several years hence if such examinations were to be given in the usual way. In these circumstances the members of the State Board conferred with the law schools in this State and with the Supreme Court, and, as we understand it, have tentatively agreed to give examinations upon the return of the men now in those camps under such circumstances and of such character as that no hardship

or injustice will be done to the splendid fellows who have offered their services and their lives to the country. It is the belief of your committee that the Board did wisely to refuse to abandon all of its functions and to wholly drop the bars which are imposed at the entrance to our great profession. Such a course would surely have resulted in deception and imposition in the cases of a few men who were seeking admission to the bar. In the nature of the case in a great national movement like this it will be impossible to have absolute official evidence of enlistment or enrollment in the camps which cannot be fraudulently imitated or forged by persons not in the camps. Furthermore, much as we all admire patriotism and courage, they alone are not sufficient qualifications for the practice of the law; and undoubtedly there will be a few men in the camps possessing these qualities but wholly unfitted by ability and study to attempt the difficult and delicate functions of the lawyer. It was highly important, therefore, the State Board of Law Examiners continue their functions and insist upon a scrutiny of the qualifications, character, and training of all men seeking admission to the bar. The plan they proposed took sufficient account of the patriotic devotion of the prospective lawyer who had enlisted or who had received a commission, and made it certain that no injustice would be done to him. For the sake of the future, for the sake of avoiding the establishment of a precedent which might be urged in unusual cases in the future, the position they took was a sound one and should be heartily approved by the State Bar Association.

It follows from the views thus expressed that this committee regrets the action of the Circuit Court in Detroit in admitting a few students to the bar without examination, upon the theory that the functions of the State Board of Law Examiners are only advisory, and that the emergency justified the admission of such men without any examination into their qualifications for the high intellectual pursuit which they propose to enter upon their return from the national service. We all applaud the courage of these young men. We have no reason to doubt that they might have qualified in the regular way for admission to the bar, and of course we do not asperse the motives of the court in granting them this unusual privilege; but we do feel and we here submit with respect that the action taken was a mistake from the point of view of the general interests of the bar and of the community.

The great majority of the young men of this State who were completing their law courses this year and who had nevertheless entered the national service were entirely willing to undergo any reasonable examination which the Board might choose to give them. It seems very unfortunate that a few men from one locality should have been wholly exempted from this examination. Their cases could have been

reasonably and fairly taken care of by the State Board without the slightest injustice. As it is, a dangerous precedent has been set for the future. And the laborious efforts of unselfish men exerted for years to build up a just and efficient scheme of admission to the Bar in this State has suffered a potentially dangerous attack. In the first place, it is unhappily probable that the present war will continue for at least another year, and many other cases like those of this spring will be presented. Moreover, with the precedent once established, other special circumstances may be seized upon by applicants for the bar to urge courts to admit them without examination; and while we may be sure that the judges of the court who admitted the men in question would not allow themselves to be misled, no one can say that never will this precedent be used unintelligently or perhaps unfairly at some time and some place in the future.

Your committee, therefore, with entire respect for all of the men involved in the incident above referred to, nevertheless regret that incident, and they respectfully urge the courts of the State in the future to require all candidates to pass such examinations as the State Board of Law Examiners may with due authority give for that purpose.

Since the last report of this committee, our State Board has examined 143 applicants for admission to the bar. Only those who are familiar with the exacting nature of this laborious task can appreciate how much time and patience and care this has required of these five members of our profession who are thus serving the State. Of the 143 students examined, 104 were passed and have been admitted to the bar, and 39 were rejected. Undoubtedly some of these 39 will continue their studies and seek re-examination. The committee again begs to express its opinion that the giving of more than two or three examinations to the same person should be discouraged. Generally speaking, a student will show his caliber on the first examination; but by the time he has taken the second examination all accidental results in the nature of surprise or of ignorance of the character of the questions should have been eliminated and the real ability and legal power of the student should have been revealed. To permit him thereafter to continue indefinitely to cram for bar examinations results in no further demonstration of his ability. In the course of time he may chance to barely pass over the mark; but if he does, another person not really qualified for the exacting and important duties of the profession has been admitted to its ranks.

Eighteen non-resident attorneys applied for admission to the bar, of whom ten were received and admitted and five were rejected. The other three cases have not yet been acted upon by the Board. The bar of the State have every reason to continue to be satisfied with the high quality of the service rendered by our State Board of

Examiners. Some of the members of this committee have had occasion to study the systems of admission to the bar in other states and to look over questions and answers given upon examinations, and it may be stated with confidence that our Board is easily one of the best and most faithful in the country.

There have been no startling developments in legal education in the country at large. No new methods of importance have been adopted. The case method of study has everywhere won its way and now holds the field in every good law school in the country. The scientific study of procedure and practice through a properly conducted practice court and practice courses has also made steady gains. We may take pride in this development because the modern system of instruction in practice is peculiarly the work of the Law School of our State University. In this connection it may not be amiss to comment with regret upon the death of Professor Jerome C. Knowlton on December 12th, 1916. Professor Knowlton was known to nearly every lawyer in this State, and had been the admired and beloved instructor of many of them as well as of thousands of lawyers throughout the country. It is to be deplored, moreover, that Professor Thomas A. Bogle, who was the first man to really develop the systematic and scientific instruction in practice, and as a part of that scheme to develop a practice court, was compelled to retire from active service at the end of the present academic year. Professor Bogle has been a pillar of strength to the Law School of the State University, and has made a unique and enviable position for himself in the ranks of the law teachers of the country. Fortunately, we have reason to believe that he has many years of usefulness before him, though he cannot undertake the exacting and continuous work of teaching.

There has been much discussion among law teachers of extending the curriculum to four years. Our State University Law School offers about six years of legal instruction, and has organized an optional four-year course which it recommends students whose age and other conditions permit to take. Northwestern University at Chicago has announced that beginning in the near future it will require four years of its students. Your committee venture to doubt whether at the present time conditions justify requiring all law students to study law four years. There are strong economic and social reasons why admission to the bar and the beginning of the self-sustaining period of a man's life should not be still further deferred. The argument for a four-year course has much strength and is based upon the fact that in three years it is impossible to give a student a complete survey of the field of the law. It is felt, moreover, that students should not be satisfied with the purely professional and technical courses in law, but should avail themselves of instruction in the

liberalizing and enlightening courses in jurisprudence, comparative law, philosophy of law, and the like.

There is noted an increasing tendency to incorporate into the law courses of the country subjects not strictly professional in character, but perhaps collateral to professional study and designed to give a liberalizing effect upon the student subjects like those above referred to. It may well be doubted whether this tendency should be encouraged for the regular three-year curriculum, or indeed for any undergraduate law student. Rather it would seem wise that this kind of study be limited to advanced students and perhaps a very few undergraduates who show particular aptitude for that kind of work. The true plan for giving liberal instruction to law students would seem to lie in the selection of a faculty whose members have liberalized and enlightened their own minds with thorough study of such subjects as above indicated and who illuminate their subjects with the product of this kind of work.

The attention of the Association is directed to the standard rules for admission to the bar (see reports of the American Bar Association for 1916 at page 652) which have been under consideration by the Association for several years and which were finally adopted by the section on legal education at its meeting in 1916. These rules were then reported as recommendations by the section on legal education to the Association itself and the Association referred these recommendations to its committee on legal education for consideration and report. This report is expected at the forthcoming meeting of the American Bar Association. (See Reports of the American Bar Association for 1916, pages 62-63.) Among the rules of greatest interest as thus reported are the following:

Rule II. A law diploma should not entitle the holder to admission to the bar without examination by this Board.

Rule X. No candidate shall be registered as a student at law until he shall have satisfied the Board (of Examiners) that he has passed the necessary requirements for entrance to the collegiate department of the State University, or of such college or colleges as may be approved by the State Board of Law Examiners, or an examination equivalent thereto conducted by the authority of the State.

Rule XI. All applicants should be compelled to study law for four years, the first three of which must be spent in compulsory attendance, upon, and the successful completion of and passing the prescribed course of instruction at an approved law school, which requires not less than three years of resident attendance for the completion of its course and for graduation therefrom, and then the service of a continuous year of registered clerkship, as prescribed, exclusive of all other occupations; provided, however, that (if such clerkship cannot be obtained) the fourth year may be passed in an

approved law school in post-graduate work, and that the applicant's law school course shall have included adequate courses in procedure and practice.

There can be no reasonable doubt about the wisdom of requiring all applicants for admission to the bar to have successfully passed a law course in an approved law school. The medical profession for years has made this requirement by law or other regulation in every State in the Union. There is no sound reason why we should not do the same.

The recommendation as to a year of apprenticeship in an office is of more doubtful wisdom, and it is understood that the American Bar Association committee on legal education will express its doubts concerning this provision. If American law offices were standardized and under the regulation of the government as in the European countries, then this requirement would probably be a wise one, but as it is some offices would do the applicant more harm than good, especially in the matter of standards of legal ethics, and there are many communities in the country in which it would be difficult or impossible for the applicant to find a place in an office. That the law students need practical experience under competent guidance, before "going it alone," goes without saying.

This problem as to the length of the course and its content, particularly in reference to the type of subjects referred to, is one which will be seriously debated in the near future, and a sound solution will undoubtedly be found.

Respectfully submitted,

LINCOLN AVERY,  
VICTOR M. GORE,  
CLARENCE A. LIGHTNER,  
MALCOLM MCGREGOR,  
HENRY M. BATES.

## REPORT OF COMMITTEE ON LEGISLATION AND LAW REFORM.

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To the Officers and Members of the Michigan State Bar Association:

Your Committee on Legislation and Law Reform begs leave to report as follows:

Shortly after the appointment of your committee there was submitted to each of them a copy of the "Report of Special Committee on Criminal Law and Procedure" which had been presented to this Association at its last annual meeting at Battle Creek. A circular letter was addressed by the chairman of your committee to each member thereof suggesting a meeting of all of its members in the Senate Chamber of the capitol sometime prior to January 1, 1917. Later a specific date was agreed upon and all of the members of the committee were in attendance. At that meeting not only the report of the special committee on Criminal Law and Procedure above referred to was considered, but several other questions relating to prospective legislation.

(a) The advisability of enacting a statute to provide for writs of error on behalf of the people in criminal cases was considered and as a result thereof, a bill substantially like the Federal statute (§ 1704 U. S. Compiled Statutes, 1916) was prepared and this was passed by the Legislature and became a law.

(b) There has been a diversity of practice in the courts under the Judicature Act in relation to the rules of evidence in criminal cases. It is claimed that there is nothing in the statute to indicate that it was intended to extend to criminal cases; that the title purports to cover only civil actions, notwithstanding the statute itself contains several provisions in relation to the rules of evidence in criminal cases.

Your committee caused to be prepared a bill relating to the rules of evidence in criminal and quasi criminal proceedings, making the provisions and regulations of the Judicature Act cover the subject of evidence in criminal and quasi criminal proceedings. This bill was introduced and became a law.

(c) All who have been prosecuting officers have been troubled by people who claim that offenses have been perpetrated but about which they are able to obtain very little information. The committee on Criminal Law and Procedure which reported at the meeting at Battle

Creek in 1916 recommended the passage of a law for investigating criminal complaints copied largely from the charter of the city of Detroit, a copy of which proposed statute was contained in that report. This proposed bill was considered by your committee, amended, introduced into the Legislature, and became a law.

(d) Your committee also considered the abolition of the method of reviewing criminal cases by exceptions before sentence recommended in the report of that committee. It was contended by some that there should be but one method of review. On the other hand it was contended that this method of reviewing criminal trials was in accordance with enlightened progress toward a more humane and expeditious criminal procedure, that no one ought to be sentenced or imprisoned until legally convicted; that it is not so much that a man is actually incarcerated, as the fact that he is stigmatized as a felon after he has been imprisoned, whether legally guilty or not, that works the injury, and it was by reason of this conflict of opinion that your committee did not prepare and seek to have enacted into law a provision to abolish this method of reviewing criminal cases.

(e) Your committee also acting upon the suggestion contained in the report of the special committee on Criminal Law and Procedure above referred to caused to be prepared a bill providing for the revision and consolidation of the laws relating to criminal law and procedure which was introduced in the Senate but died in the ways and means committee of the House.

(f) Your committee acting further upon the suggestions of the special committee on Criminal Law and Procedure hereinbefore referred to caused to be prepared a bill to authorize arrest in certain cases under like circumstances as for felony, which bill was as follows:

#### "A BILL

To authorize arrest in certain cases under like circumstances as for felony.

The People of the State of Michigan enact:

Section 1. Any sheriff, under-sheriff, deputy sheriff, constable, marshal, or police officer may, under like circumstances as in the case of a felony, arrest without warrant any person for the commission of any offense in the presence of such officer or for the commission of any offense triable in a court of record, or any person for whom a warrant has been issued by any magistrate of this State."

After this Senate bill was beaten in the House it also caused a substitute therefor to be prepared and introduced as follows:

## "A BILL

To authorize arrests without a warrant for the commission of offenses in the presence of certain officers.

The People of the State of Michigan enact:

Section 1. Any sheriff, under-sheriff, deputy sheriff, constable, marshal or police officer may arrest without a warrant any person committing any offense in the presence of such officer against the laws of this State or the ordinances of the municipality where such offense is committed.

Section 2. In such cases such officer or some person having knowledge of such offense shall promptly make complaint before a magistrate having jurisdiction thereof and thereafter like proceedings shall be had as when a warrant is issued before the arrest." Which bill died in the House Judiciary Committee.

Your committee believes that the original bill should have been enacted into law:

When any offense is actually committed in the presence of an officer, perhaps while the officer is looking squarely at the act, why should not an arrest be made on the spot? Under the present state of our law the officer acts at his peril unless the offense is a felony or a breach of the peace. The officer may be an eye witness to petty larceny, gaming, giving liquor to children, boot legging, etc., yet he can legally exercise no authority till he has hunted out a justice, signed a complaint, obtained a warrant and found his man—if he is able. In practice the public expect an officer to arrest in such cases and would probably demand his dismissal for failure so to do. It must be clear that the officer should have such authority.

If an offense is serious enough to be triable in the circuit court we believe that arrest should be permitted without a warrant under like circumstances as for felony even though it technically be not a felony.

After a warrant has been duly issued by any magistrate, preceded by the inquiry necessary to such issuance, we believe that any police officer in the State should be authorized to arrest the accused without being obliged to obtain personal possession of the warrant as now required, in case of misdemeanors not breaches of the peace. If the warrant is out, certainly no right of the accused is infringed by his arrest by the first officer who can apprehend him.

(g) Your committee also acting upon the recommendations of the special committee on criminal law and procedure prepared a bill in relation to the waiver of objections to indictments, which bill was as follows:

## "A BILL

To amend section 9 of Act No. 77 of the Public Acts of 1855, entitled "An act relative to indictments," being section 15747 of the Compiled laws of 1915.

The People of the State of Michigan enact:

Section 9 of Act No. 77 of the Public Acts of 1855, entitled "An act relative to indictments," being section 15747 of the Compiled Laws of 1915, is hereby amended to read as follows:

Section 9. Every objection to an indictment \* \* \* shall be taken by demurrer or motion to quash such indictment before the jury shall be sworn and not afterward and unless to taken shall be deemed waived: Provided, that the court may, in its discretion, on application of the defendant, entertain such objection at a later stage of the trial, but in every such case the application shall constitute a waiver by the defendant of any jeopardy that has heretofore attached: Provided, That every court before whom such objection shall be taken for any formal defect may, if it be thought necessary, cause the indictment to be forthwith amended in such particular and thereafter the trial shall proceed as if no defect had appeared." Which bill was defeated in the House.

(h) Your committee also by agreement considered and finally prepared a bill providing for a commission to revise and consolidate the laws relating to corporations. That bill was introduced in the Senate, but likewise died in the ways and means committee of the House.

The facts which your committee believed justified them in asking for the appointment of a commission to revise and consolidate the criminal law and the corporation law of the State were submitted to Governor-elect Sleeper and approved and recommended by him in his initial message to the Legislature.

In the State of Michigan we now have more than 180 separate and distinct corporation statutes applicable to corporations of the particular class for which the statute is designed and we have more than 400 separate and distinct legislative enactments applicable to corporations. To illustrate:

Among the transportation companies we have statutes for the bridge companies, navigation companies, ferry companies, pipe line companies, telegraph companies, telephone companies, express companies, railroad companies, street railroad companies, plank road companies, rafting companies, rafting and boom companies, and others.

Among improvement companies, we have canal, harbor and river improvement companies, river navigation improvement companies; boundary river improvement companies, and log driving rivers and streams improvement companies.

Among labor associations, we have laws providing for the organiza-

tion of mechanics' associations, associations for the promotion of labor, arbeiter bunds, cooperative associations, associations for the promotion of selling of fruit, trade unions, labor associations, cooperative mutual benefit associations, covenant mutual benefit associations, fraternal cooperative associations, cooperative mutual benefit associations, railroad employes cooperative associations and others.

Taking up the law for the sporting interests of the State.

We have a statute for the incorporation of associations for yachting, hunting, boating, fishing, rowing, and other lawful sporting purposes, another for the incorporation of baseball clubs, another for the incorporation of the League of American Wheelman, another for the formation of societies of marksmen, another for the formation of gymnastic associations; all of which laws should be consolidated, allowing the association to make such provisions within the limits of the law as is best suited to its own purposes.

Among scientific institutions we provide by separate statutes for the incorporation of medical societies by one act, while another provides for the incorporation of pharmacists and druggists' associations, another for eclectic medical associations, another for veterinary medical associations, another for associations of members of the bar, and another for teachers' associations.

Among patriotic societies we provide by one act for the incorporation of the Grand Army of the Republic, by another for the incorporation of the Woman's Relief Corps, by another for the organization of the Sons of Veterans, by another for the formation of ladies aid societies auxiliary to the Sons of Veterans.

National societies are provided for by separate and distinct statutes providing for the incorporation of each of the following: Sons of St. George, St. George Societies, St. Andrew's Societies, societies of St. Patrick, Ancient Order of Hibernians, Loyal Orangemen, Deutscher Landwehr' Uter Stuetzungs-Verein, St. Jean Baptiste societies, French-Canadian societies and Colonial Dames of America.

There are different statutes for each of the following temperance societies, namely: Father Matthews Total Abstinence Benevolent societies, Independent Order of Good Templars, Templars of Honor and Temperance, Reform Club Temperance societies, Finnish National Brothers' Temperance association, Finnish Temperance Friends' association of America, Royal Templars of Temperance, Happy Home Clubs of America, Independent Order of Rechabites, and Temperance Volunteers' associations.

We have in this State many different laws providing for the incorporation of different secret and fraternal associations, such as Masonic lodges, Masonic associations, White Shrine of Jerusalem, Independent Order of Odd Fellows, Knights of Pythias, Rathbone Sisters, Royal Arcanum, Knights of the Maccabees, Ladies of the Maccabees. Im-

proved Order of the Red Men, Ancient Order of United Workmen, Independent Order of Foresters, Ancient Order of Foresters, Foresters of America, Benevolent and Protective Order of Elks, Knights of the Golden Eagle, Legion of the Cross, Knights of the Ancient Essenic Order, United Friends, Order of Hermann, Mystic Order of New Kaaba and others.

A mere glance of the list of corporation laws above mentioned will demonstrate that at least all of the associations of each class should be compelled to incorporate under one law broad and comprehensive enough to permit it that the statute books of this State ought not to be lumbered up with so many illy-considered, vairant laws; that a large number of these statutes merely provide different methods of doing the same thing.

Not only is it true that we have many useless corporation statutes, some of which have been above enumerated, but these statutes of themselves perpetuate useless distinctions. Take for instance the right of secret fraternal societies to hold property. The Odd Fellows may hold \$50,000, the Knights of Pythias \$5,000, the Rathbone Sisters \$100,000, the Royal Arcanum \$1,000, the United Workmen \$5,000, the Knights of the Golden Eagle \$50,000; all of which discrimination are wholly without any reason.

Why should there be any difference in these societies as to the right to hold property for the purposes of the order? Why, for instance, should the Foresters of America have no limit placed upon their right to hold property and another association be limited to holding property to the extent of \$1,000 and another be limited to \$100,000? There is only one explanation for the existence of these distinctions and that is each statute was prepared, introduced, and its passage secured by the interest to be affected by its passage and that the legislature never gave to any of them any intelligent consideration.

Discussing the methods of proving corporate action in Michigan; Prof. Wigmore says, "The statutes of this jurisdiction reach the culmination of crude superfluity."

He calls attention to 118 general but separate and distinct legislative enactments, in force in this State, each prescribing a method of certifying the records of corporate action. He points out that these statutes with their tedious multiplicity of repetition are, for the most part, vain and harmful and a printed monument to the folly of excessive and thoughtless legislation; that they profusely repeat, with culpable forgetfulness what is already the law by express general statute; that they not only add to the impedimenta of the profession and make necessary the mastery of multifarious, petty learning, but they also provide in many instances inconsistent formalities of authentication for evidence which could equally well be subjected to a uniform simple rule.

All are familiar with the graft, speculation, conspiracy to defraud, extravagance and criminality revealed in the New York insurance investigations; which showed that when the policyholders of the insurance companies, who felt that they had been defrauded, instituted suits to compel the officers of the company to disgorge their ill-gotten gains; the companies at once secured amendments to the insurance laws of New York prohibiting any policyholder from bringing suit for an accounting without a determination by the insurance department that the company was insolvent and without the consent of the Attorney General of the State; who, being in office through the sufferance and influence of the companies never consented; and thus the companies robbed the policyholders; their officers speculated with the companies, assets; voted to themselves exorbitant salaries; bribed legislators; subsidized public officers and throttled the complaints of the policyholders who owned the companies' assets. Statutes similar to those of New York, even now disgrace the statute books of Michigan; though in New York, where they originated their principal beneficiaries have been driven from power, suits prosecuted to recover the stolen money, and the statutes themselves, whose initial excuse for existence was the protection of thieves, have been modified or repealed. Michigan might do well to follow New York in their repeal.

(i) Your committee also caused to be prepared a bill authorizing an increase of salary for the justices of the Supreme Court of this State, which bill was introduced into the Legislature but did not become a law.

(j) There was also called to the attention of the committee a bill to prohibit the practice of law by corporations.

Which bill did not become a law.

(k) In addition to this a proposition was also submitted to the members of the committee to amend Section 61 of Chapter One of the Judicature Act, so as to read as follows:

61. "It shall be unlawful for any person who is not a regular licensed attorney and counsellor in this State, or who is suspended or disbarred from practice:

"a. To hold himself out to the public as being entitled to practice law, or to render or furnish legal services or advice or to render legal services of any kind in actions or proceedings of any nature or in any other way or manner, or in any other manner to assume to be entitled to practice law or to assume to use any sign, letter head, return envelope, or writing, printing, or advertising of any kind whatever in or by which he designates or represents his place of business as a law office, or himself as a lawyer or attorney, attorney-at-law, counsellor or equivalent term in any language in such manner as to convey the impression that he is entitled to practice law

or to furnish legal advice, services or counsel, or to make any representations to any person or persons either spoken or written intended to lead such person or persons to believe that the person making such representations is an attorney-at-law.

"b. To represent or appear for any other person than himself in any court of this State or before any judicial body or to furnish or render legal services or advice to another or to solicit or accept any claim or demand for the purpose of securing the collection thereof, or of bringing an action thereon.

"c. Provided, however, That this section shall not apply to licensed attorneys of other states while temporarily within this State." This bill was forwarded to the chairman of your committee, but so far as your committee have ascertained it was not introduced, at least it did not become a law.

(1) There was also submitted to your committee a bill to regulate the practice in Circuit Courts on motions to quash, demurrers and dilatory pleas in criminal cases.

This bill did not become a law.

(m) Your committee deems it advisable to call attention to the following amendment to the Judicature Act enacted at the last session of the Legislature:

(1) An act to provide for the enforcement of land contracts entered into by any person since deceased.

(2) Also an amendment to the Judicature Act to provide for the dissolution of corporations.

(3) Also to an act permitting of cross actions in negligence cases where the cross action arises out of or is a part of the transaction.

(n) Also an act providing a limitation upon the issue of writs of error as a matter of right to cases in which the amount in controversy exceeds five hundred dollars, as follows:

"Writs of error, upon any final judgment or determination, where the judgment exceeds in amount five hundred dollars, may issue of course, out of the Supreme Court, in vacation as well as in term, and shall be returnable to the same court; and in all other cases such writ may issue in the discretion of the Supreme Court upon proper application."

Your chairman is unqualifiedly opposed to this statute which leaves to the court the option to review or not to review any case no matter what principle may be involved. Review should be a matter of right and not of option. No court of last resort under the guise of judicial discretion should have it in its power to evade the responsibility of deciding any question no matter what the amount involved may be, or to elevate money above principle.

(o) He believes that it is a disgrace to the jurisprudence of Michigan that in homicide cases, the most heinous of crimes, the

granting of writs of error is denied as a matter of right and made a matter of option or discretion, and earnestly recommends the enactment of an amendment to the statute making the granting of writs of error in homicide cases a matter of right to the respondent.

(p) He also recommends the passage of a statute in this State substantially as follows:

"An act to make the performance or the attempt at performance of a Judicial Act by any Judge or Judicial Officer in any Proceeding in which said Judge or Judicial Officer is interested a felony. To provide for the disbarment of such Judge or Judicial Officer as an attorney and to provide other penalties.

"The People of the State of Michigan enact:

"Section 1. Any judge or judicial officer who shall knowingly perform or attempt to perform any judicial act or function in any civil or criminal proceeding in which such judge or judicial officer is directly or indirectly interested shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars (\$1,000) or imprisonment in the State prison not to exceed five years, or by both such fine and imprisonment in the discretion of the court, shall be removed from office, and shall be thereafter perpetually disbarred from the practice of law."

I realize that the enactment of this statute seems drastic. It is not, however, when measured by the penalties imposed by the early common law.

Certainly the practice of judges and judicial officers acting in cases in which they have an interest is not only growing more prevalent but it is an outrage committed under the guise of judicial sanction, a prostitution of a power granted upon a sacred trust to private purposes, tending to bring all courts into contempt for the wrongs of those who thus violate the most elementary principles of right.

Why wink at judicial corruption? Why not speak out that the judiciary may be purged of men who disgrace it? The profession of law will thereby be elevated in the estimation of mankind, and no honest judge need have fear.

(q) Your committee hopes that some method may be devised of speeding up the publication of the Michigan Reports, which at this time have been brought down to January 3, 1916.

W. W. POTTER.

I am authorized to say that Mr. Cummins of the committee disapproved the position of the chairman in relation to the law limiting writs of error as a matter of right to cases involving \$500.00 or more.

## REPORT OF COMMITTEE ON MEMBERSHIP.

To the Michigan State Bar Association:

Your committee on membership respectfully reports that through the assistance and under the supervision of your president, Mr. Hamilton, approximately three thousand personal letters have been mailed during the past year to promote the membership campaign. These letters have been sent to members of our Association and to other men in the profession, who we believed should become members of the Association. The work that has been done has been practically a continuation of the work inaugurated by Mr. Hamilton during the preceding year, when he, with the aid of other members of the membership committee, secured 176 new members. Your committee for the past year has not equalled that fine record, but it gives us pleasure to report to you the addition of 150 new members to the Association during this year. We offer this report without apology or excuse, but we have reason to believe that had it not been for the fact that the attention and energies of the men of our profession have been so generally diverted to the pressing needs arising out of the crisis in our national affairs, we might well have had a larger number of new members to report as the result of our efforts.

We have given a general invitation to the members of the Association to assist us in our membership work by urging all attorneys whom they could personally recommend to join the Association; and we have forwarded application cards to be used in this manner. Results from this plan were of material assistance in our work. In making direct solicitation to prospective members, the committee has centered its efforts upon a selected list of recommended attorneys. We have aimed at quality rather than quantity, feeling that it was more to be desired that the standards of our Association be maintained than that the numbers be increased at the expense of admitting any who would not live up to the high purposes which our Association has for its ideals.

Dated June 28, 1917.

Respectfully submitted,

VERNER W. MAIN,  
HARRY A. SILSBEE,  
PARM C. GILBERT,

Committee on Membership.

The names of all new members will be found in the Membership List.

## REPORT OF GRIEVANCE COMMITTEE.

To the Michigan State Bar Association:

Gentlemen:—Your Committee on Grievances respectfully submits the following report:

## I.

That your committee has received from various sources, usually from forwarding agencies, a number of complaints growing out of the collection of moneys by different attorneys in various parts of the State. With a single exception, to which reference will be made in another paragraph, these complaints have resolved themselves into disputes over the size of the fees the lawyers should charge for the services rendered, and in those instances where this state of facts has appeared upon the face of the charges made, your committee has refused to take any part in the controversy, but have deemed it their duty to leave the parties to such other remedies as they may wish to pursue, if any.

## II.

Early in the year to this committee was referred by the President of your Association a question of ethics which is of sufficient importance to be briefly stated:

"A and B were partners; A held the office of Prosecuting Attorney; D was prosecuted, charged with assault upon C with intent to do great bodily harm; B was appointed by the court to assist the Prosecuting Attorney in the trial of the case and A as Prosecutor and his partner, B, as an assistant, prosecuted the case and secured a conviction. Thereafter A's term of office as Prosecutor terminated, then the Plaintiff, C, wishing to commence an action of damages against the respondent D, growing out of the same state of facts, desired to have A and B act as his attorneys in the Civil Suit."

The question submitted was whether A and B, under this state of facts, would be justified in taking the plaintiff's case. After a thorough discussion of the principles that might be involved in this question, your committee came to the following unanimous conclusion:

That, while there is no legal restraint upon attorneys in acting as above outlined, the practice would be contrary to public policy and if encouraged might lead to undesirable results.

One of the chief reasons which led the committee to this conclusion is that while in the particular instance where the question arose undoubtedly the attorneys acted in entire good faith, the approval by the State Bar Association of such a course might invite unusual activity on the part of Prosecuting Attorneys whose terms of office are about to expire, in the prosecution of cases, with the expectation of deriving an advantage in prospective business that might naturally

follow as a result of convictions after the expiration of the Prosecutor's term of office.

It is the theory of the law of Michigan that the Prosecuting Attorney is presumed to act at all times in prosecution of criminal cases in such a manner as to protect the interests of the accused as well and as thoroughly as the interests of the public; and in the judgment of the committee the approval of the policy outlined in this question would have a tendency to interfere with the unbiased mind with which a Prosecutor should approach and conduct a criminal case and would for the reasons outlined be against public policy.

### III.

Your committee further reports that some time ago certain affidavits, documents, and the stenographer's minutes of proceedings taken in a civil cause, were submitted to your committee, and your committee requested to prefer charges against two attorneys residing in the northern part of the southern peninsula for alleged professional misconduct surrounding the trial of a civil cause; that your committee were impressed by the seriousness of the charges made and have gone to considerable pains and some expense in making a thorough investigation of this matter, and at the request of the committee, your chairman made a special trip to the northern part of the State for the purpose of making a personal investigation, and after a careful examination of the matter your committee is satisfied that the conduct of both attorneys complained of is such that it would not be proper for this committee to overlook the matter, and it might be well to add that against one of these attorneys other charges have been made for the misappropriation of moneys collected by him for other parties.

The chairman of the committee interviewed both attorneys for the purpose of giving each an opportunity to explain, if possible, the charges made against them, and after considering the whole matter your committee could come to no other conclusion than that both attorneys had been guilty of professional misconduct, which could not be overlooked if the dignity of the Bar of Michigan is to be preserved. And your chairman has, therefore, in each instance and at the request of the Committee on Grievances, filed separate petitions in the circuit court where these attorneys reside, praying that each may be either suspended for a limited time, or forever disbarred from practicing his profession in the State of Michigan, as the facts after a full hearing in each case may warrant.

Respectfully submitted,

CLAUDE S. CARNEY,  
JAMES W. MACKEY,  
WALT. I. LILLIE.

## REPORT OF HISTORICAL COMMITTEE.

PREPARED BY JOSEPH L. HOOPER.

PRESENTED BY VERNER W. MAIN,

BOTH OF BATTLE CREEK.

The president of the State Bar Association has suggested to me that a Memorial to Joseph H. Choate, so long acknowledged leader of the American Bar, should properly have a place in this year's meeting of our Association.

Joseph Hodges Choate was born at Salem, Massachusetts, January 14th, 1832. He came of a family distinguished even in Massachusetts for its ability and learning. His father was George Choate, a physician of wide reputation, and his uncle, Rufus Choate, long occupied a position at the Bar identical with that of his nephew in later years. Joseph H. Choate graduated at Harvard College in 1852, and from the law department of the same school in 1854. He was admitted to the Bar of Massachusetts in 1855 and to that of New York in 1856. His talents were early recognized by the lawyers of the metropolis, and in 1860 he became a member of the firm of Evarts, Southman & Choate, the senior member being the distinguished William M. Evarts. Later on the firm became that of Evarts, Choate & Beaman. This firm was undoubtedly the leading American law partnership during its existence, and with the passing of Evarts and his great fame as an advocate Joseph H. Choate rapidly rose to the position of the leading trial lawyer of New York City, and probably of the United States. To catalogue the great trials in which he took part would be to give a list of the great lawsuits of New York and its vicinity for a period of many years. Among them may be mentioned the will contests over the estates of Mr. Samuel J. Tilden, A. T. Stewart and Leland Stanford. The Kansas Prohibition cases, the Chinese Exclusion cases and many other suits of the utmost importance were conducted by Mr. Choate with ability and success. In 1871 he was appointed one of the Committee of Seventy, who investigated the Tweed Ring and who finally brought about the successful prosecution of the arch-criminal.

Choate was never an office seeker, with the exception of one occasion, when in 1897 he was a candidate for United States Senator against Senator Platt. In 1894 he was president of the New York Constitutional Convention and in 1899 the great honor of Ambassador to Great Britain came to him at the hands of President McKinley.

America has always sent her best foreign ministers to the mother country and Joseph H. Choate maintained the best traditions of his predecessors. He was wonderfully popular with the English people, who felt that when he spoke he voiced the true sentiment of America. The English Bar gave him the unusual tribute of an election as Barrister of the Inner Temple, an honor which had never before that time been accorded to an American or indeed to any foreigner. It is no exaggeration to say that Mr. Choate did more toward bringing about a complete understanding between his countrymen and the English people than any other individual.

Since his return from his English mission, Mr. Choate lived in comparative retirement until the events which led up to our present war once more called forth his splendid abilities. He put himself into the spirit of the occasion with all the fiery zeal of his youthful days. He spoke at scores of patriotic functions. He plead earnestly with his countrymen to take what he deemed to be the real place of America in the great contest. His activities proved fatal. The war will claim no more distinguished victim than the aged lawyer who virtually gave his life in his country's service.

A lawyer who is well fitted to judge of his talents, has said of Mr. Choate:

"He was not only easily the leading trial lawyer of the New York Bar, but was by many thought to be the representative lawyer of the American Bar. Surely no man of his time was more successful in winning juries. His career was one uninterrupted success. Not that he shone especially in any particular one of the duties of the trial lawyer, but he was pre-eminent in the quality of his humor and keenness of satire. His whole conduct of a case, his treatment of witnesses, of the court, of opposing counsel, and especially of the jury, were so irresistibly fascinating and winning that he carried everything before him. One would emerge from a three weeks' contest with Choate in a state almost of mental exhilaration despite the jury's verdict."

He was essentially an advocate. His client's cause became his own. Yet he was never charged with unfairness in his advocacy. He was human, however, and in the famous case which he conducted against Russell Sage in the suit brought against Sage by William R. Laidlaw, whom Sage made a shield for himself against the bomb of an assassin, the Supreme Court of New York reversed the case on the ground that Choate's very whimsical cross-examination of Sage was prejudicial.

The writer of this short memorial had the privilege in 1913 of seeing Mr. Choate invested with the degree of doctor of laws at McGill University in Montreal. About the aged man were grouped

Lord Haldane, the Chancellor of the British Empire, William Howard Taft, Mitre Labori, the Great French Advocate, and many other of the world's famous lawyers, but it seemed that Joseph H. Choate typified in every way the ideal American Lawyer, fearless, honest, true to his client and seeking always for the truth in what Tennyson has perhaps not inaptly termed

"The lawless science of the law

"That tangled code of myriad precedents,

"That wilderness of single instances."

---

HON. ROLLIN H. PERSON.

See Pages 103 to 107 this Report.

HON. CYRENIUS P. BLACK.

Judge Cyrenius P. Black was born at Alfred, Allegheny county, New York, April 16th, 1843. He was educated in the common school of his home town, and at Alfred University, entering upon the practice of law in Bay City in 1867, associated with Judge Theodore F. Shepherd.

Judge Black's career has been filled with official activities. At the time of his death he was Michigan's Vice President in the American Bar Association, as well as head of that body's committee on uniform automobile legislation.

Mr. Black had been assistant United States assessor in Tuscola county in 1866-7; recorder for West Bay City in 1868 and 1869; prosecuting attorney for Marquette county and city attorney for the city of Marquette from 1874 to 1876; and was a member of the legislature from Tuscola county in 1883-5; from 1885 to 1890 Mr. Black was United States Attorney for the Eastern District of Michigan, and was appointed a commissioner on uniform state legislation in 1909, and at the time of his death was a member of the Michigan commission on compilation of State statutes. He was city attorney for the city of Lansing in 1894-5, and 1908 to 1912.

Mr. Black was a lawyer of rare ability, conscientious and painstaking in his work, and true to every interest of his clients. He was a gentleman of high standing in the community where he lived, and was beloved throughout the State. The suddenness of his death came as a shock to his many friends. He had only arisen to address the Supreme Court on an important case and reached the words "May it Please the Court" when death overtook him.

## JEROME CYRIL KNOWLTON.

Jerome Cyril Knowlton spent his whole life in Michigan. He was born in Canton, Wayne county, December 14, 1850, attended the district schools, State Normal School, Ann Arbor high school and the University of Michigan. From this last he received the degree of A. B. in 1875 and LL. B. in 1878, and in her service he spent the last 31 years of his life as Professor of Law. From 1891 to 1896 he was Dean of the Law School.

He was married to Delle M. Pattengill on September 25, 1875, and they had two children who, with the widow, survive him. After receiving his law degree he practiced law in Ann Arbor until 1890, when he gave up active practice to devote his full time to teaching. His success as a practitioner led to his selection for his position on the Law Faculty, in which he endeared himself to hundreds of students who affectionately remember "Jerry" with a personal feeling given to few.

He published an edition of Anson on Contracts and contributed to law journals various articles on legal subjects. At the time of his death, December 12, 1916, he was the oldest member in point of service of the Law Faculty of the University of Michigan. No other one ever had a hold on so great a number of students, and they looked upon him as a most genial and gentle friend. The qualities of his mind and heart had much to do with the estimate in which he was held by all who knew him. He was an unusually clear thinker, a keen analyst, an original, lucid and forceful expositor—above all, he was a loved friend.

## FRANK P. GRAVES.

Mr. Graves was born in Grand Rapids, Michigan, June 27th, 1871, and graduated from the high school of that city in 1888, later attending the University of Michigan where he graduated from the Literary Department in 1893, and from the Law Department in 1895, but previously in 1894 was admitted to practice law in Indianapolis. In the University he was an active member of the Alpha Delta Phi fraternity, and always maintained a keen interest in the affairs of that fraternity. Upon his graduation in 1895 he commenced the practice of his profession in Benton Harbor, which he successfully pursued until he moved to Chicago in 1902, and since his removal to Chicago, has maintained an active association in law and business matters in Benton Harbor.

Mr. Graves was Captain of Co. I, Thirty-third Michigan Volunteers, and took an active part in the Spanish-American war.

His sudden, untimely death July 8th, 1915, without warning, came as a severe shock to all who knew him.

He was a man of high standing in his profession, and in his business and profession alike he was optimistic and fearless, undertaking important matters and carrying them to successful terminations.

#### CLARE M. GUNDRY.

Clare M. Gundry was born April 26th, 1883, in the township of Grand Blanc, Genesee county, Michigan. He graduated from the Flint high school in June, 1901, and from the University of Michigan in June, 1907, having completed with high honors both the Literary and Law Courses of that Institution. Almost immediately after graduating he commenced the practice of law at the city of Flint, and at the time of his death was a member of the law firm of Brennan, Cook & Gundry.

Mr. Gundry died April 2nd, 1917, at Battle Creek, Mich., where he had gone for treatment. He left surviving him his widow and two brothers.

Clare M. Gundry was a man of strict integrity, absolute honesty in all things, and was always reliable and dependable. He bore an unblemished character, and lived a simple, unpretentious and unassuming life. He was a natural lawyer, nature having endowed him with what might be termed a legal mind. This supplemented by six years of literary and legal training at the University made it possible for him to acquire a profound and accurate knowledge of legal principles. Though young he was universally recognized by lawyers with whom he came in contact as being a man of unusual legal attainments and by the courts as an able, efficient and profound lawyer.

There was little in his life to criticize, much to admire and respect; he demonstrated his attainments by honest effort, and that true merit hath its reward.

#### CHARLES M. WILSON.

Charles M. Wilson, of Grand Rapids, Michigan, died June 20th, 1917. He was born in the city of Ionia, October 10th, 1858, and graduated from Ionia high school in 1876, and in the same year entered the University of Michigan, graduating with the class of 1880; later graduating from the Law Department of the same Institution in 1882. Mr. Wilson after graduating became a clerk in the law office of Champ-  
lin & More, and upon the election of Judge Champlin to the Supreme Court, he became the junior member of the firm of More & Wilson. Thereafter he was successively a member of the firm of Taggart,

Denison & Wilson; Wilson & Wilson; Wilson & Rice, and Wilson & Johnson.

Mr. Wilson served as a member of the Law Examiners of the State of Michigan, and as a member of the Board of Public Works of Grand Rapids. He was a candidate for judge of the Supreme Court and for presidential elector upon the Democratic ticket. Mr. Wilson was an elder of the Westminster Presbyterian Church of Grand Rapids and a trustee of Alma College.

He was a man of ability in his profession, of high standing as a gentleman in the community in which he lived, and in his death the Bar of Grand Rapids and the State have lost a valuable member.

#### HEZEKIAH M. GILLETT.

Mr. Gillett, senior member of the firm of Gillett & Clark, was born in Genesee county, New York. He secured his primary education at LeRoy Academy in his native county, and then entered Cornell University where he was graduated in 1874 with the Degree of Bachelor of Arts. Two years later he went to Bay City and entered upon the study of law with the firm of Hatch & Cooley. He was admitted to the Bar of Michigan in 1877, and shortly afterwards entered into partnership with J. E. Simonson, under the firm name of Simonson & Gillett. Later E. S. Clark was admitted to partnership, and the firm style was Simonson, Gillett & Clark.

Mr. Gillett devoted particular attention to corporation and real estate law practice, and for a considerable period had been counsel for many of the manufacturing corporations of Bay City and at the time of his death was one of the Board of Directors and also Vice President of the Bay County Savings Bank.

Mr. Gillett is survived by his widow and four children. One son, John Gillett, by a first marriage, and one son, and two daughters by a second marriage, the latter of which are now students in the Bay City high school.

Mr. Gillett was a Mason, a member of Bay City Commandery, No. 26, Knights Templar. He also retains his college fraternity membership with the Theta Delta Chi society.

He was a man of high ability in the legal profession, and of high standing as a gentleman in the community in which he lived.

## REPORT OF SECRETARY.

Lansing, Mich., June 29, 1917.

To the Officers and Members of  
Michigan State Bar Association,  
Gentlemen:

The work of the Secretary during the past year has been largely in the nature of routine work owing to the fact that the President of your association, Mr. Hamilton, has taken so much of a personal interest in the work and has himself, together with his committees accomplished the material things for the good of the association, and therefore my report will be brief.

During the past winter the Legislature was in session and the Committee on Legislation and Law Reform presented to that body a large number of bills affecting the legal profession and the practice of law, and did considerable work in procuring their passage in which they were successful in some instances and in others not. The report of that committee as well as the paper to be presented by Mr. Person, will give in some detail just the results accomplished.

Another matter of importance to the legal profession and to the State generally, for which the association may, for its past efforts and at the last session of the Legislature at least through one of its active members take some credit, and that is the legislation which resulted in an appropriation for a new State Building in the city of Lansing, which when completed, will relieve the congested condition of the State Capitol, so as to provide adequate room for our Supreme Court law library and other departments. The Association has through its committee for years been trying to accomplish this end, and through the untiring efforts of Senator Foster, the member of the association above referred to, the desired results have finally been accomplished.

All of the members will no doubt remember not long ago receiving from the President a pamphlet on which were several questions and requesting members to make some suggestions as to subjects which were to them of importance and of importance to the association. I understand that a large number of replies were received and many excellent suggestions made, and these I trust will be taken up by the different members, and freely and fully discussed.

Through the untiring efforts of the chairman of the Committee on Membership, with the assistance of the President, a large number of new members have been added to the list of membership. A report of that committee, when presented, will give the exact number.

Since our last Annual Meeting there have only been three withdrawals from the association all owing to either removal from the State or discontinuance of the practice of law. I regret to report, however, that several of our members have been taken by death, including an Ex-President of the Association, Judge Rollin H. Person.

One important matter which will, I think, be taken up during the session, and I hope freely discussed, will be the inauguration of some system whereby any member of the association or lawyers who have shown their patriotism to their country by enlisting, whereby their practice may be kept up by brother attorneys under some system which I hope may be devised. I understand through the American Bar Association that the practicing physicians have as an organization such a method in force.

The association is at the present time in a most flourishing condition and the officers are at all times glad to receive suggestions for the betterment of the association as a whole or an individual member.

The Executive Committee have prepared an excellent program for this year's meeting and I hope it will be enjoyed and a benefit to each member.

## PROCEEDINGS OF

## FINANCES.

Balance in hands of Secretary at last annual meeting.....	\$138 00
Amount collected from members dues, 1917.....	1,176 00
	<b>\$1,314 00</b>
1916.	
July 17, Remitted to Treasurer .....	\$118 00
1917.	
Feb. 5, Remitted to Treasurer .....	118 00
Feb. 5, Remitted to Treasurer .....	248 00
Mar. 22, Remitted to Treasurer .....	134 00
May 2, Remitted to Treasurer .....	386 00
June 21, Remitted to Treasurer .....	120 00
	<b>1,124 00</b>
Balance in hands of Secretary, June 28, 1917.....	\$190 00
Respectfully submitted,	
HARRY A. SILSBEE,	
Secretary	

## REPORT OF TREASURER.

## WILLIAM E. BROWN, TREASURER, IN ACCOUNT WITH THE MICHIGAN STATE BAR ASSOCIATION.

To the President, Officers and Members of  
the Michigan State Bar Association:

I herewith submit my report of the receipts and disbursements for the year ending June 29th, 1917:

## RECEIPTS.

July 20, 1916, To balance on hand .....	\$243 12
July 21, 1917, To dues received from Secretary.....	118 00
Mar. 21, 1917, To dues received from Secretary.....	360 00
Mar. 24, 1917, To dues received from Secretary.....	134 00
May 21, 1917, To dues received from Secretary.....	386 00
June 27, 1917, To dues received from Secretary.....	120 00
Total .....	<b>\$1,367 12</b>

## DISBURSEMENTS.

1916.	
July 19, By check 221, Harry A. Silsbee .....	\$179 32
July 19, By check 222, Leland H. Sabine .....	5 64
July 19, By check 223, The Ripley & Gray Ptg. Co. ....	6 75
July 19, By check 224, The Detroit Legal News Co. ....	14 25
July 24, By check 225, W. J. Landman .....	4 00
July 25, By check 226, Walter S. Foster .....	19 69
July 25, By check 227, R. M. Eldred .....	25 00
1917.	
Jan. 11, By check 228, E. C. Massie, Treasurer Comparative Law Bureau .....	15 00
Mar. 20, By check 229, Harry A. Silsbee .....	200 00
Mar. 20, By check 230, The Ripley & Gray Ptg. Co. ....	6 00
Mar. 23, By check 231, Wynkoop, Hallenbeck & Crawford Co. ....	296 50
May 21, By check 232, Harry A. Silsbee .....	100 94
June 29th Balance on hand.....	494 03
Total .....	<b>\$1,367 12</b>

Respectfully submitted,  
WM. E. BROWN,  
Treasurer.

June 30 1917.

To the Michigan State Bar Association.

Gentlemen:—Your Auditing Committee, to whom was referred the reports of the Treasurer and Secretary for audit, begs leave to report as follows:

We examined the report of the Treasurer and checked the same with report of the Secretary and find that the reports are in agreement. We have also checked the items of disbursements and the vouchers which show payment of the same and find the reports to be, in all things, correct.

Your committee recommends that these reports be accepted, adopted and printed in the proceedings of the meeting.

Respectfully submitted,  
WILLIAM J. LANDMAN,  
BERT D. CHANDLER,  
WALTER S. FOSTER.



**BANQUET**  
—  
**OFFICERS, COMMITTEES**  
—  
**LIST OF MEMBERS**  
—  
**MEMBERS BY CITIES**  
—  
**LIST OF DECEASED MEMBERS**



TWENTY-SEVENTH ANNUAL BANQUET  
OF THE  
MICHIGAN STATE BAR ASSOCIATION.

GRAND RAPIDS, MICHIGAN, JUNE 29, 1917, KENT COUNTY CLUB.

Toastmaster.....HON. THOMAS J. O'BRIEN  
Grand Rapids Bar.  
Address.....HON. LAWRENCE MAXWELL  
Cincinnati, Ohio.  
Address.....HON. ROGER W. BUTTERFIELD  
Grand Rapids.

OFFICERS OF THE AMERICAN BAR ASSOCIATION  
1917-1918.

PRESIDENT.

Walter George Smith, Philadelphia, Pa.

SECRETARY.

George Whitelock, Baltimore, Md.

ASSISTANT SECRETARY.

W. Thomas Kemp, Baltimore, Md.

TREASURER.

Frederick E. Wadhams, Albany, N. Y.

VICE-PRESIDENT FOR MICHIGAN.

Dan H. Ball, Marquette.

MEMBER OF GENERAL COUNCIL FOR MICHIGAN.

John B. Corliss, Detroit.

LOCAL COUNCIL.

Edwin C. Goddard, Ann Arbor.  
Fred A. Maynard, Grand Rapids.  
George W. Bates, Detroit.  
Wm. L. January, Detroit.

## OFFICERS OF MICHIGAN BAR ASSOCIATION.

### OFFICERS.

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 Vice-President.....George Clapperton, Grand Rapids  
 Secretary.....Harry A. Silsbee, Lansing  
 Treasurer.....William E. Brown, Lapeer

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 Ninth Congressional District.....Parm C. Gilbert, Traverse City  
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 Eleventh Congressional District.....Sherman T. Handy, Sault Ste. Marie  
 Twelfth Congressional District.....William P. Belden, Ishpeming  
 Thirteenth Congressional District.....Adolph Sloman, Detroit

## COMMITTEES MICHIGAN BAR ASSOCIATION.

1917-1918.

### COMMITTEE ON LEGISLATION AND LAW REFORM.

William W. Potter, Chairman, Hastings.  
 Walter S. Foster, Lansing. Edson R. Sunderland, Ann Arbor  
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 James Mackey, Marshall.

### COMMITTEE ON MEMBERSHIP.

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 Parm C. Gilbert, Traverse City. Harry A. Silsbee, Lansing

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 Fred A. Baker, Detroit. Russell R. Pealer, Three Rivers  
 Claudius B. Grant, Detroit. Thomas E. Barkworth, Jackson

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JUDGE FLETCHER MEMORIAL COMMITTEE.

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Frank B. Devine, Ann Arbor. Edward Cahill, Lansing.

COMMITTEE ON LOCAL BAR ASSOCIATIONS.

Henry F. Jacobs, General Chairman, Battle Creek.

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1. Victor Hawkins, Jonesville.....Chairman First Judicial Circuit
2. Charles W. Stratton, St. Joseph.....Chairman Second Judicial Circuit
3. Adolph Sloman, Detroit.....Chairman Third Judicial Circuit
4. Enoch Bancker, Jackson.....Chairman Fourth Judicial Circuit
5. Philip T. Colgrove, Hastings.....Chairman Fifth Judicial Circuit
6. John H. Patterson, Pontiac.....Chairman Sixth Judicial Circuit
7. Mark W. Stevens, Flint.....Chairman Seventh Judicial Circuit
8. Alfred R. Locke, Ionia.....Chairman Eighth Judicial Circuit
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16. William S. Jenney, Mt. Clemens.....Chairman Sixteenth Judicial Circuit
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19. Max E. Neal, Manistee.....Chairman Nineteenth Judicial Circuit
20. G. J. Diekema, Holland.....Chairman Twentieth Judicial Circuit
21. C. W. Perry, Clare.....Chairman Twenty-first Judicial Circuit
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26. Carl R. Henry, Alpena.....Chairman Twenty-sixth Judicial Circuit
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28. Fred C. Wetmore, Cadillac.....Chairman Twenty-eighth Judicial Circuit
29. John T. Mathews, Ithaca.....Chairman Twenty-ninth Judicial Circuit
30. Frank L. Dodge, Lansing.....Chairman Thirtieth Judicial Circuit
31. J. F. Wilson, Port Huron.....Chairman Thirty-first Judicial Circuit
32. Emil Storkan, Ironwood.....Chairman Thirty-second Judicial Circuit
33. Victor D. Sprague, Cheboygan.....Chairman Thirty-third Judicial Circuit
34. E. M. Harris, West Branch.....Chairman Thirty-fourth Judicial Circuit
35. George E. Pardee, Owosso.....Chairman Thirty-fifth Judicial Circuit
36. John R. Carr, Cassopolis.....Chairman Thirty-sixth Judicial Circuit
37. Laurence E. Gordon, Bat. Creek.....Chairman Thirty-seventh Judicial Circuit
38. Clifton M. Kolb, Monroe.....Chairman Thirty-eighth Judicial Circuit
39. W. B. Alexander, Adrian.....Chairman Thirty-ninth Judicial Circuit
40. W. E. Brown, Lapeer.....Chairman Fortieth Judicial Circuit

EXECUTIVE COMMITTEE.

H. Clare Jackson, Chairman, Kalamazoo.  
Charles H. Farrell, Kalamazoo. Samuel H. Van Horn, Kalamazoo

DELEGATES TO AMERICAN BAR ASSOCIATION—1917.

Hon. William L. Carpenter, Detroit. Hon. Joseph B. Moore, Lansing  
Hon. Fred A. Maynard, Grand Rapids.

## ALPHABETICAL LIST OF MEMBERS.

## HONORARY MEMBERS.

Carter, Orrin N., Hon.	Chicago, Ill.
Grant, Claudius B., Hon.	Detroit, Mich.
Montgomery, Robert M., Hon.	Washington, D. C.
Riddell, William Renwick, Hon.	Toronto, Ont.
Severens, Henry L., Hon.	Kalamazoo, Mich.

## A.

Abbott, Fred H.	Crystal Falls
Adams, John W.	Kalamazoo
Adams, James M.	Jackson
Aitken, D. D.	Flint
Allen, Maxwell B.	Battle Creek
Alexander Geo. L.	Grayling
Alexander, Cassius.	Grand Ledge
Alexander, W. B.	Adrian
Altland, D. F., Penobscot Bldg.	Detroit
Alway, C. D.	Traverse City
Anderson, David.	Paw Paw
Andrews, Roy.	Hastings
Angell, Alexis C., Dime Bank Bldg.	Detroit
Antisdel, John P., Union Trust Bldg.	Detroit
Ardis, Walter R.	Cadillac
Atherton, E. S.	Durand
Avery, Lincoln.	Port Huron

## B.

Backus, Ella M.	Grand Rapids
Backus, Standish.	Detroit
Bacon, N. H.	Niles
Badgley, Forrest C.	Jackson
Bag, Harry K.	Ironwood
Bailey, John W.	Battle Creek
Baird, William S.	Bessemer
Baker, James H.	Adrian
Baker, James C.	Escanaba
Baker, F. A., Whitney Opera House Bldg.	Detroit
Baker, John F.	Flint
Baldwin, Clark E.	Adrian
Ball, Dan H.	Marquette
Banyon, Willard J.	St. Joseph
Bancker, Enoch.	Jackson
Barbour, Levi L., Buhl Block.	Detroit
Barghoorn, C. D.	Wolverine
Barnes, Stuart C., Moffat Block.	Detroit
Barkworth, T. E.	Jackson
Barlow, Burt E.	Coldwater
Bartlett, Charles L., Hammond Bldg.	Detroit
Bates, Henry M.	Ann Arbor
Bauman, H. Thane.	Morenci
Beaumont, John W., Ford Bldg.	Detroit
Beck, Ira A.	Battle Creek
Behr, Fred A., Dime Bank Bldg.	Detroit
Belcher, Charles N.	Manistee
Belden, Wm. E., Rockefeller Bldg.	Cleveland
Bell, Frank A.	Negaunee
Benedict, C. L.	Port Huron
Benjamin, Maxwell W., Dime Bank Bldg.	Detroit
Berg, Fred H.	Ishpeming
Berry, John F.	Lansing
Bird, John E.	Adrian-Lansing
Bissell, John H., 80 Griswold St.	Detroit
Black, Albert W., Shearer Bldg.	Bay City

Black, Allan R.	Lansing
Blair, Charles B.	Grand Rapids
Bland, J. Edw.	Detroit
Bodman, Henry E., Union Trust Bldg.	Detroit
Boltwood, Lucius	Grand Rapids
Bogle, Henry C., Union Trust Bldg.	Detroit
Boice, J. A.	Lansing
Bonisteel, Roscoe O.	Ann Arbor
Bope, Wm. T.	Bad Axe
Bowman, E. J.	Greenville
Bouras, H. I.	Adrian
Boyd, J. L.	Kalkaska
Bowen, Herbert, 33 Forest Ave.	Detroit
Boudeman, Dallas	Kalamazoo
Bradfield, Thomas P.	Grand Rapids
Brackett, A. F.	Norway
Breen, Fred M.	Cadillac
Brennan, Hubert A.	L'Anse
Bridgman, George W.	Benton Harbor
Britton, D. M.	Sturgis
Brooks, Walter H.	Grand Rapids
Broomfield, Archibald, 98 Glyn Court.	Detroit
Brown, William C.	Lansing
Brown, J. Earle	Lansing
Browne, Prentise M.	St. Ignace
Brown, George C.	Grand Rapids
Brown, Wm. E.	Lapeer
Bulkley, Harry C., Union Trust Bldg.	Detroit
Bunker, Robt. E.	Ann Arbor
Burbans, Earl L.	Paw Paw
Burke, George J.	Ann Arbor
Burns, Wilber N.	Niles
Burritt, B. H. T.	Hancock
Burritt, W. A.	Hancock
Butzel, Leo M.	Detroit
Butterfield, Roger C.	Grand Rapids
Butterfield, Roger W.	Grand Rapids
Butzel, Henry M., Union Trust Bldg.	Detroit
Byers, I. W.	Iron River

## C.

Cady, William B., Union Trust Bldg.	Detroit
Cady, B. D.	Port Huron
Cahill, Edward	Lansing
Campan, Francis D.	Grand Rapids
Callender, Sherman D., Dime Bank Bldg.	Detroit
Campbell, Arthur D., Majestic Bldg.	Detroit
Campbell, Chas. H., Union Trust Bldg.	Detroit
Campbell, Colln P.	Grand Rapids
Campbell, Robert L.	Kalamazoo
Campbell, Howard L.	Manistee
Campbell, Henry M., Union Trust Bldg.	Detroit
Cambrey, Leman A.	Pontiac
Canfield, I. S.	Alpena
Carbaugh, W. J.	Lansing
Carl, David	Richmond
Carmody, Martin H.	Grand Rapids
Carney, Claude S.	Kalamazoo
Carpenter, Wm.	Muskegon
Carpenter, Eugene	Grand Rapids
Carpenter, Wm. L.	Detroit
Carr, John B.	Cassopolis
Carrigan, Don R.	Port Huron
Carton, John J.	Flint
Cavanaugh, M. J.	Ann Arbor
Chamberlain, Robt. M., Dime Bank Bldg.	Detroit
Champion, Chas. V.	Coldwater
Chase, Henry E.	Grand Rapids
Chappell, Fred L.	Kalamazoo
Choate, Ward N., Dime Bank Bldg.	Detroit
Chandler, Jas. E.	South Haven
Chandler, Bert D.	Hudson
Clancey, Thomas	Ishpeming
Clapperton, Geo.	Grand Rapids
Clarke, E. S.	Bay City
Clark, Herbert R.	Adrian

Clark, George M.	Bad Axe
Clark, Harlow A.	Marquette
Clark, Levert, Buhl Bldg.	Detroit
Clark, Joseph H., Hammond Bldg.	Detroit
Cleary, James	Battle Creek
Clute, Wm. K.	Grand Rapids
Cobb, N. A.	Battle Creek
Codd, Geo. P., Hammond Bldg.	Detroit
Cogger, H. J.	Big Rapids
Cogger, Albert B.	Big Rapids
Cogshall, F. C.	South Haven
Colgrove, P. T.	Hastings
Collins, W. A.	Bay City
Collingwood, C. B.	Lansing
Colwell, R. A.	Ironia
Coolidge, O. W.	Niles
Cook, Frank C., Majestic Bldg.	Detroit
Cook, George W.	Flint
Cook, Martin V.	Greenville
Cook, Robert H.	Saginaw
Cooper, Adrian A.	Albion
Cone, Chester E.	Cassopolis
Connine, Ward B.	Traverse City
Converse, J. E.	Bay City
Corliss, John B., Ford Bldg.	Detroit
Cortright, Clyde	Marshall
Coulson, Charles L.	Delray
Covert, Arthur H., Majestic Bldg.	Detroit
Cowles, Israel T., Union Trust Bldg.	Detroit
Crane, R. L.	Saginaw
Crane, Wm. E.	Saginaw
Cross, Orien S.	Allegan
Cross, Wm. N.	Cheboygan
Cummins, Alva M.	Lansing
Cunningham, Paul E., 411 Houseman	Grand Rapids
Cyrowski, August, Penobscot Bldg.	Detroit

## D.

Davis, John C.	Battle Creek
Davis, H. C.	Traverse City
Davis, Geo. W.	Saginaw
Denby, Edwin, Moffat Bldg.	Detroit
Denison, A. C., Government Bldg.	Grand Rapids
Danaher, M. B.	Ludington
DeVine, Frank B.	Ann Arbor
Dibble, Charles L.	Kalamazoo
Dickinson, Philip S., Penobscot Bldg.	Detroit
Diekema, G. J.	Holland
Dixon, A. F.	Iron River
Dodds, Francis H.	Mt. Pleasant
Dodds, Peter F.	Mt. Pleasant
Dodge, Frank L.	Lansing
Doetsch, Felix A., Union Trust Bldg.	Detroit
Donovan, Percy J., Penobscot Bldg.	Detroit
Donovan, J. W.	Detroit
Donnelly, Edward, Ford Bldg.	Detroit
Dotsch, Henry R.	Escanaba
Doty, Frank L.	Pontiac
Douglas, Samuel T., Moffat Bldg.	Detroit
Driscoll, George O.	Ironwood
Duffield, Bethune, Union Trust Bldg.	Detroit
Durfee, Edgar O., Probate Court	Detroit
Duffy, James E.	Bay City
Dumon, John E.	Big Rapids
Duncan, J. O.	Traverse City
Dunham, John M.	Grand Rapids
Dunnebacke, Joseph H.	Lansing
Durfee, Edgar N.	Ann Arbor
Durand, L. T.	Saginaw

## E.

Earl, Otis A.	Kalamazoo
Eberstein, Clyde	Battle Creek
Eby, U. S.	Cassopolis
Edgerton, J. M.	Negaunee
Eldred, Foss O.	Ironia

Eldredge, Ralph R.	Marquette
Eldredge, A. B.	Marquette
Ellis, Howard A., Houseman Bldg.	Grand Rapids
Ellis, A. A.	Grand Rapids
Empeon, G. Raymond	Gladstone
Engel, Albert J.	Lake City
England, Howell S., Dime Bank Bldg.	Detroit
Esery, Carl V., Union Trust Bldg.	Detroit

## F.

Fales, Ira	Midland
Fahrner, Jacob F.	Ann Arbor
Faling, Glenn R.	Kalamazoo
Farmer, Edward C.	Muskegon
Farrell, Charles H.	Kalamazoo
Fellows, Grant	Lansing
Fead, Louie H.	Newberry
Finan, Carl B., Majestic Bldg.	Detroit
Fitzpatrick, Merton	Hillsdale
Fitzgerald, Wm. L.	Kalamazoo
Fitzpatrick, W. G., Ford Bldg.	Detroit
Flynn, William H.	Tawas City
Ford, Frank E.	Kalamazoo
Ford, Albert N.	Battle Creek
Forshee, Dewey M.	Ann Arbor
Foster, Walter S.	Lansing
Foster, Chas. W.	Lansing
Frankhauser, W. H.	Hillsdale
French, Fremont F.	East Tawas
Free, A. Lynn	Paw Paw
Fredenberg, J. A.	Pontiac
Fryburger, Raymond A.	Ironwood
Frost, Alfred S.	Kalamazoo

## G.

Gaffney, Hubert J.	Bay City
Gage, Wm. G.	Saginaw
Galbraith, Wm. J.	Calumet
Gardner, W. R.	Saugatuck
Garvin, L. E.	Marquette
Gates, Charles F.	Sandusky
Gelb, Fred P.	Grand Rapids
Gemuend, H. H.	Ionia
Gilday, Edward	Monroe
Gilbert, Parm C.	Traverse City
Gleason, Clark H.	Grand Rapids
Goddard, Edwin C.	Ann Arbor
Goff, John H., Union Trust Bldg.	Detroit
Goggin, Charles H.	Alma
Goodenough, L. W.	Detroit
Goodrich, Cyrus J.	Battle Creek
Gordon, Wm. D.	Midland
Gore, Victor M.	Benton Harbor
Grant, George	Saginaw
Graves, Henry B., Hammond Bldg.	Detroit
Grawn, Carl B., Ford Bldg.	Detroit
Gray, Humphrey S.	Benton Harbor
Gray, Robt. F., Ford Bldg.	Detroit
Gray, Wm. J., Ford Bldg.	Detroit
Greene, James A.	Alma
Green, Thomas J.	Sault Ste. Marie
Greene, Leslie E.	Hart
Griswold, N. O.	Greenville
Grommon, W. D.	Hillsdale
Groesbeck, A. J., Majestic Bldg.	Detroit
Guernsey, A. L.	Hillsdale

## H.

Haab, Otto E.	Ann Arbor
Hagerman, Roy H.	Sturgis
Haggerson, Fred H.	Menominee
Haight, Chas. F.	Lansing
Hall, Frank M.	Hillsdale
Hall, A. B., Hammond Bldg.	Detroit
Hamblen, Joseph G., Jr., Union Trust Bldg.	Detroit

Hamilton, Burritt	Battle Creek
Hammond, Chas. F.	Lansing
Hammond, E. T.	Lansing
Hanchette, Charles D.	Hancock
Handy, Sherman T.	Sault Ste. Marie
Hanson, W. S.	Hart
Harmon, Chas. O.	Cassopolis
Harrington, Leon W.	Grand Rapids
Harris, J. M.	Boyer City
Harris, E. M.	West Branch
Hart, B. L.	Adrian
Hartnigh, Nicolas C.	Tawas City
Hatch, Reuben	Grand Rapids
Hatch, Harvey Burright	Marquette
Hatch, W. B.	Ypsilanti
Hawkins, Victor	Jonesville
Hayden, Asa K.	Cassopolis
Hayden, Chas. Howe	Lansing
Heald, Henry T.	Grand Rapids
Helmes, Daniel E.	Flint
Helmesman, D. E., Dime Bank Bldg.	Detroit
Heltsch, Robert D.	Pontiac
Heltman, Harry, Ford Bldg.	Detroit
Hendee, J. B.	Eaton Rapids
Hendryx, Coy W.	Dowagiac
Henry, Carl B.	Alpena
Henry, William B.	Bay City
Hewitt, John C.	Bay City
Hext, Chas. F.	Grand Rapids
Hicks, Arthur P., Ford Bldg.	Detroit
Higbee, Clark E.	Grand Rapids
Hill, Sherwin A., Union Trust Bldg.	Detroit
Hitchcock, Chas. W.	Bay City
Hixson, Virgil L.	Manistiquie
Hofius, Cornelius	Grand Rapids
Holbrook, Evans	Ann Arbor
Hooper, Joseph L.	Battle Creek
Hopkins, George P.	Kalamazoo
Hoosier, Geo. S., Wayne County Bldg.	Detroit
Houghton, Samuel G.	Bay City
Howard, Harry C.	Kalamazoo
Hubbell, I. L.	Belding
Hudson, Roberts P.	Sault Ste. Marie
Hughes, Isaac S.	Port Huron
Humphrey, Chas. M.	Ironwood
Humphrey, George M.	Saginaw
Hunter, George G.	Ovid
Hutchins, Harry B., Prof.	Ann Arbor
Hyde, Ralph J.	Coleman

## I.

Irish, E. M.	Kalamazoo
--------------	-----------

## J.

Jackson, Harry W.	Muskegon
Jackson, H. Clair	Kalamazoo
Jackson, Glenn W.	Gladstone
Jacobs, Henry F.	Battle Creek
January, Wm. L., Buhl Block	Detroit
Jenkins, Frank E.	Oxford
Jenney, Wm. S.	Mt. Clemens
Jewell, Harry D.	Grand Rapids
Hewett, Henry R.	Adrian
Johnson, Gottfried S.	Manistiquie
Jones, Arthur, Hammond Bldg.	Detroit
Jones, John	Ontonagon
Jones, Walter C.	Marcellus

## K.

Kaltz, B. Frank	Sault Ste. Marie
Kane, Patrick H., Stevens Block	Port Huron
Kane, R. W.	Charlevoix
Kavanagh, Chas. H.	Berrien Springs
Keating, Frank L.	Pellston
Keena, Jas. T., Peoples State Bank Bldg.	Detroit

Keeney, Willard F.	Grand Rapids
Kaiser, A. A.	Ludington
Kelly, William T.	Mt. Clemens
Kelley, Spencer D.	Lansing
Kelley, P. H.	Lansing
Kelly, Samuel H.	Lansing
Kennedy, Michael J.	Ishpeming
Ketcham, Clyde W.	Kalamazoo
Kerr, John D.	Calumet
King, Clyde V.	Williamston
Kinnane, J. E.	Bay City
Kinne, E. D.	Ann Arbor
Kirk, John P.	Ipsilanti
Kirschman, Robt. H.	Battle Creek
Kirkby, Elmer.	Jackson
Kleinhaus, Jacob.	Grand Rapids
Knappen, Loyal E.	Grand Rapids
Knappen, Stuart E.	Grand Rapids
Knight, William A.	Battle Creek
Koib, Clifton M.	Monroe
Kress, James G.	Alma
Kuhn, Franz C., Majestic Bldg.	Detroit

## L.

Lacy, A. J., Moffat Bldg.	Detroit
Ladd, S. W., Union Trust Bldg.	Detroit
Lainz, E. Bruce.	Downingtown
Lamb, Fred S.	Cadillac
Landman, Wm. J.	Grand Rapids
Lane, Victor H., Prof.	Ann Arbor
Latting, Raymond A.	Grand Lodge
Law, Eugene F.	Port Huron
Lawrence, J. S.	Grand Rapids
Lechner, Julius J., Dime Bank Bldg.	Detroit
Lee, Ed. S.	Flint
Legris, Louis N.	Houghton
Leete, Thos. T., Jr., Ford Bldg.	Detroit
Leitch, B. G.	Battle Creek
Lewis, Edwin C., Ford Bldg.	Detroit
Lewis, Chas. E., Union Trust Bldg.	Detroit
Lewis, R. L.	Charlevoix
Lewis, Milo.	Greenville
Lightner, Clarence A., Dime Bank Bldg.	Detroit
Lillie, Chas. E.	Grand Rapids
Lillie, Hugh E.	Grand Haven
Lillie, Leo C.	Grand Haven
Lillie, Walter I.	Grand Haven
L'Mauer, Henry E., 471 Philip Ave.	Detroit
Locke, Alfred R.	Jonah
Lockwood, Harry A., Ford Bldg.	Detroit
Lombard, James A.	Grand Rapids
Long, Thos. G., Ford Bldg.	Detroit
Loud, Edward R.	Albion
Loveridge, Henry C.	Coldwater
Lucking, Alfred, Ford Bldg.	Detroit
Ludlum, Roy M.	Battle Creek
Lyon, Chas. A.	East Tawas
Lyle, Clarence M.	Cassopolis
Lynch, James H.	Pontiac
Lyster, Henry L., Ford Bldg.	Detroit

## Mc.

McArthur, L. B.	Lansing
McBride, Homer J.	Flint
McClellan, John.	Lansing
McCorkle, Wm. F., Ford Bldg.	Detroit
McCurdy, John T.	Corunna
McDonald, Chas. S., Hammond Bldg.	Detroit
McDonald, E. A.	Marquette
McDonald, Francis T.	Sault Ste. Marie
McDonald, Jas. H., 1323 Woodward Ave.	Detroit
McDonald, J. S.	Grand Rapids
McFarlan, James H.	Flint
McGee, Clinton.	Pontiac
McGill, Chas. W.	Lansing
McGregor, Malcolm, Penobscot Bldg.	Detroit

McHale, John	Iron River
McHugh, Philip A., Majestic Bldg.	Detroit
McKay, Henry J.	Romeo
MacKay, John D., Dime Bank Bldg.	Detroit
McKenzie, Robert W.	Sandusky
McKee, Mark T., Dime Bank Bldg.	Detroit
McKnight, W. F.	Grand Rapids
McMillan, Philip H.	Detroit
McMillan, Archibald H.	Bay City
McNally, Eugene A.	Calumet
McNamara, James, Dime Bank Bldg.	Detroit
McPeck, Russell R.	Charlotte
McPhee, John D.	Cheboygan
McPherson, Chas., Mich. Trust Bldg.	Grand Rapids

## M.

Mackey, James W.	Marshall
Main, Verner W.	Battle Creek
Maguire, Arthur D., Hammond Bldg.	Detroit
Mahar, E. A.	Grand Rapids
Manchester, Wm. C., Dime Bank Bldg.	Detroit
Mapes, Carl E.	Grand Rapids
Marsh, Phil W., Free Press Bldg.	Detroit
Mason, Lynn B.	Kalamazoo
Mathews, Glenn D.	Ionia
Matthews, K. B.	Ludington
Mathews, John T.	Ithaca
Maynard, F. A.	Grand Rapids
Mecham, George W.	Battle Creek
Mecham, J. Leland	Battle Creek
Merrick, Benj. P.	Grand Rapids
Merriam, S. L., Legal Dept. P. M. Ry. Co.	Detroit
Michener, Earl C.	Adrian
Miles, Fred T.	Holland
Miller, A. E.	Marquette
Mosler, Carl D.	Dowagiac
Miller, Frederick C.	Mt. Clemens
Miller, Leon W.	Petoskey
Miller, F. C.	Ionia
Miller, Chas. O., Penobscot Bldg.	Marshall
Miller, Sidney T.	Detroit
Millis, Wade, Ford Bldg.	Detroit
Mills, A. J.	Kalamazoo
Miltner, Henry M.	Lake City
Moinet, Edward J.	St. Johns
Monaghan, Geo. F., Majestic Bldg.	Detroit
Montgomery, Stanley D.	Lansing
Moody, Paul B., Ford Bldg.	Detroit
Moody, Frank B., Ford Bldg.	Detroit
Moore, Geo. G., 52 Vanderbilt Ave.	New York
Moore, Geo. Wm., Campau Bldg.	Detroit
Moore, Alex.	Port Huron
Moore, J. B.	Lansing
Morrissey, Francis M.	Harrison
Moore, Wm. V., Wayne Co. Savings Bank Bldg.	Detroit
Morse, Allen B.	Ionia
Moulton, Luther V.	Grand Rapids
Mulford, Benj. F., Dime Bank Bldg.	Detroit
Murfin, J. O., Dime Bank Bldg.	Detroit
Murphy, Thos. F.	Morenci
Myers, John W.	Ithaca
Maynard, Horace S.	Charlotte

## N.

Naegely, Henry E.	Saginaw
Neal, Max E.	Manistee
Nichols, Geo. E.	Ionia
Nichols, Myron H.	Homer
Nichols, Chas. W.	Lansing
Norcross, Geo. S.	Grand Rapids
Norris, Mark	Grand Rapids
North, Walter H.	Battle Creek
Nunneley, B. V.	Mt. Clemens
Nutten, Wesley L., 1540 Penobscot Bldg.	Detroit

## O.

O'Brien, P. H.	Laurium
O'Brien, T. J.	Grand Rapids
O'Brien, M. Hubert	Detroit
O'Connor, Joseph J.	L'Anse
O'Hara, John J.	Menominee
O'Hara, John P., 1206 Majestic Bldg.	Detroit
Olivier, Chas. O.	Hancock
O'Neill, James A.	Ironwood
Onen, B. J.	Battle Creek
Otto, H. A.	Saginaw
Osterbous, Louis H.	Grand Haven
Ostrander, Russell C.	Lansing
Overpack, Roy M.	Manistee
Oxtoby, James V., Dime Bank Bldg.	Detroit

## P.

Paddock, Lewis H., Penobscot Bldg.	Detroit
Pailthrop, C. J.	Petoskey
Paine, DeForest, Penobscot Bldg.	Detroit
Palmer, Harold	Coldwater
Palmer, L. C.	Stanton
Pardee, George E.	Owosso
Parker, W. J.	Corunna
Parker, Jas. S.	Flint
Parker, R. A., Moffat Block	Detroit
Patchin, J. W.	Traverse City
Pealer, R. R.	Three Rivers
Peilham, H. M.	Iron Mountain
Pendleton, E. W., Dime Bank Bldg.	Detroit
Pengra, Otis	Sebewaing
Perkins, Willis B.	Grand Rapids
Perry, Chas. W.	Clare
Parkinson, J. A.	Jackson
Patterson, John H.	Pontiac
Penny, A. W.	Cadillac
Perry, Geo. B., Penobscot Bldg.	Detroit
Perry, Judson M., 619 Moffat Bldg.	Detroit
Person, Seymour H.	Lansing
Peter, Jas. B.	Saginaw
Peters, Elmer N.	Charlotte
Peters, M. B.	Albion
Peterman, Albert E.	Calumet
Phalen, John	Ludington
Phelps, Earl E., Court House	Grand Rapids
Phillips, P. H.	Port Huron
Pierpont, Warren	Owosso
Pierson, Alfred P.	Escanaba
Porter, Edward W.	Bay City
Porter, Wm. H.	Marshall
Potter, Waldo T.	Ishpeming
Potter, Wm. W.	Hastings
Power, Geo. S.	Iron River
Powers, Walter S.	Battle Creek
Powers, James M.	Battle Creek
Prentis, Geo. H., Dime Bank Bldg.	Detroit
Preston, Loomis K.	St. Joseph
Prescott, John S.	Battle Creek
Price, Richard	Jackson
Primeau, Jos. H., 2524 Jefferson Ave.	Detroit
Pugsley, Earl C.	Hart
Pulver, Seth Q.	Owosso

## Q.

Quail, Robert J.	Ludington
Quay, Homer H.	Cheboygan

## R.

Raudabaugh, Richard	Lansing
Reasoner, James M.	Lansing
Reece, Albert O.	Jackson
Rees, Allen F.	Houghton
Reilly, C. S.	Cheboygan
Rexford, D. C., Buhl Block	Detroit
Reynolds, Carl H.	Lansing

Rhoads, Samuel H.	Lansing
Rice, Cyrus W.	Grand Rapids
Rigler, Ralph W.	Ann Arbor
Riggs, J. Culver	Hillsdale
Riley, Thos. J.	Escanaba
Ritze, C. C.	Iron River
Roberts, Clinton	Flint
Robertson, Chas. L.	Adrian
Robinson, Carl A.	Marshall
Robinson, Thos. N.	Holland
Robinson, Deen L.	Houghton
Robson, Frank E., M. C. R. R. Bldg.	Detroit
Rockwell, K. P.	Pontiac
Rood, John R.	Ann Arbor
Rosenberg, Louis J., Ford Bldg.	Detroit
Ross, John Q.	Muskegon
Rueggesser, E. A.	Boyne City
Rushton, H. J.	Escanaba
Russell, Henry, M. C. R. R. Depot.	Detroit
Russell, Frank J.	Adrian
Ryall, Arthur H.	Escanaba
Ryan, Vincent D.	Bay City

## S.

Sabin, Leland H.	Battle Creek
Sauer, Alfred H.	Pigeon
Sayre, F. P.	Flushing
Schell, F. R.	Port Huron
Schulte, H. C.	Houghton
Schurtz, Shelby B.	Grand Rapids
Schuur, R. Paul.	Kalamazoo
Searle, Kelly S.	Ithaca
Seegmiller, W. A.	Owosso
Selby, Guy W.	Flint
Seelye, W. S.	Lansing
Selling, B. B., Hammond Bldg.	Detroit
Shaberg, Marvin J.	Kalamazoo
Sharpe, D. B.	Kalamazoo
Shaw, Frank E.	Grand Rapids
Sheldon, B. Skiff	Houghton
Shepherd, Frank	Cheboygan
Shepherd, James F.	Cheboygan
Sherwood, M. J.	Marquette
Shields, Edmund C.	Lansing
Shipman, John B.	Coldwater
Shipman, F. C., Union Trust Bldg.	Detroit
Silsbee, Harry A.	Lansing
Simon, Frank J.	Albion
Simonson, Alex. B.	Sandusky
Sloan, J. T.	Centerville
Sloman, Adolph, Penobscot Bldg.	Detroit
Sloman, Edmund N., Penobscot Bldg.	Detroit
Smedley, C. O.	Grand Rapids
Smith, Clement	Hastings
Smith, James Cosslett, Penobscot Bldg.	Detroit
Smith, Hal H., Ford Bldg.	Detroit
Smith, J. M. C.	Charlotte
Smith, Elmer G.	Atlanta
Smith, Hiram R.	Roscommon
Smith, Laurence W.	Ionia
Smith, O. L.	Ithaca
Smith, R. W.	Monticue
Smith, Wallis Craig	Saginaw
Smith, Wm. V.	Flint
Smith, Wm. Alden	Grand Rapids
Smith, W. M.	St. Johns
Snyder, C. H. W.	Tawas City
Snyder, Emil W., Majestic Bldg.	Detroit
Souter, Robert M.	Port Huron
Souter, H. Dale	Grand Rapids
Spalding, H. E., Dime Bank Bldg.	Detroit
Spencer, James R.	Iron Mountain
Spears, W. J.	Vassar
Spinney, John D.	Alma
Sprague, Victor D.	Cheboygan
Stace, Francis A.	Grand Rapids

Stanford, Geo. B.	Midland
Standart, Joseph, Farwell Bldg.	Detroit
Stears, J. H.	Lansing
Stein, Christopher E., Police Court.	Detroit
Stellwagen, A. C., Home Bank Bldg.	Detroit
Steinkohl, W. F.	Lansing
Stewart, Louis E.	Battle Creek
Stewart, Gordon L.	Kalamazoo
Stewart, Shirley.	Port Huron
Stewart, N. H.	Kalamazoo
Stevens, Mark W.	Flint
Stivers, Frank A.	Ann Arbor
Stockwell, Elmer E.	Pontiac
Stoddard, John L.	Bay City
Stone, John W.	Lansing
Stone, John G.	Houghton
Stone, John P.	Ithaca
Storkan, E. E.	Ironwood
Strom, Torval E.	Escanaba
Sunderland, E. R.	Ann Arbor
Sullivan, Frank P.	Sault Ste. Marie
Swan, James, McGrau Bldg.	Detroit

## T.

Taggart, Ganson.	Grand Rapids
Tanner, Elwyn.	Flint
Taylor, Orla B., Butler Bldg.	Detroit
Taylor, Walter R.	Kalamazoo
Temple, Chas. E.	Grand Rapids
Thayer, Russell B.	Saginaw
Thomas, Chas. E.	Battle Creek
Thomas, Wilber F.	Constantine
Thomas, John D.	Ann Arbor
Thomas, Harris E.	Lansing
Tillean, John A.	Pontiac
Torbert, Hugh L., Dime Bank Bldg.	Detroit
Travis, DeHull N.	Flint
Travis, P. H.	Grand Rapids
Trucks, Ray.	Baldwin
Turner, Raymond.	Norway
Turner, James, Union Trust Bldg.	Detroit
Tuttle, Arthur J.	Detroit
Tweddie, I. J.	Traverse City

## U.

Uhl, Marshall M.	Grand Rapids
Underwood, M. W.	Traverse City

## V.

Van Ameringen, V. E.	Ann Arbor
Van Horn, S. H.	Kalamazoo
Vincent, Bird J.	Saginaw
Visscher, Raymond.	Holland

## W.

Walbridge, H. E.	St. Johns
Walker, Myron H., Federal Bldg.	Grand Rapids
Walters, Henry C., Ford Bldg.	Detroit
Waffen, A. J.	Iron River
Walling, Eugene A., Dime Bank Bldg.	Detroit
Walsh, John J.	Ontonogan
Walsh, Joseph.	Port Huron
Walsh, William R.	Port Huron
Waples, H. J.	Ironwood
Ward, Chas. E.	Grand Rapids
Ware, Wm. E.	Battle Creek
Warner, David A.	Grand Rapids
Warren, Benj. S., Ford Bldg.	Detroit
Warner, Frank R.	Sault Ste. Marie
Warner, Glenn E.	Paw Paw
Warner, D. G. F.	Lansing
Warner, Wm. W.	Allegan
Warner, Fred L.	Belding
Warren, Chas. B., Union Trust Bldg.	Detroit
Watkins, Roy M.	Grand Rapids

Wattles, Stephen H.	Kalamazoo
Wattles, I. N.	Kalamazoo
Weadock, George L.	Saginaw
Weadock, George W.	Saginaw
Weadock, Thos. A. E., Hammond Bldg.	Detroit
Weadock, Bernard F., Woodward Ave.	Detroit
Weadock, Jerome J.	Saginaw
Weadock, Lewis J.	Bay City
Weadock, John V.	Saginaw
Weadock, John C., 14 Wall St.	New York
Weage, Stanley E.	Coldwater
Webster, Elmer R.	Pontiac
Webster, Clyde I., Majestic Bldg.	Detroit
Weider, Herman A.	Houghton
Welmer, George V.	Kalamazoo
Wellman, H. E.	Mancelona
Welsh, Chas. F.	Detroit
Westerman, Walter S.	Jackson
West, Robert J.	Deckerville
Weston, Frank S.	Kalamazoo
Wetmore, Fred C.	Cadillac
White, Milo A.	Fremont
Wicks, Kirk E.	Grand Rapids
Widdis, Albert.	Tawas City
Wiest, Howard.	Lansing
Wiley, Merlin.	Sault Ste. Marie
Wilgus, H. L.	Ann Arbor
Wilkins, Chas. T., Hammond Bldg.	Detroit
Williams, Wm. B.	Lapeer
Williams, Arthur B.	Battle Creek
Wilson, J. Frank.	Port Huron
Wilson, Hugh E.	Grand Rapids
Wilson, Dwight L.	East Jordan
Wilson, Floyd A.	Saginaw
Windsor, Herbert E.	Marshall
Wixson, Walter S.	Caro
Wolcott, Grove H.	Jackson
Wolf, G. A.	Grand Rapids
Woodruff, Chas. M., 475 E. Grand Boulevard.	Detroit
Woodward, E. A.	Iron Mountain
Worch, Rudolph.	Jackson
Worcester, Alpheus A.	Big Rapids
Wright, James K.	St. Louis
Wykes, Roger Irving.	Grand Rapids
Wunsch, Henry, Moffat Bldg.	Detroit

## Y.

Yelland, Judd.	Escanaba
Yerkes, C. C.	Northville
Yerkes, Geo. B., Home Bank Bldg.	Detroit

Total 741.

## MEMBERS BY CITIES.

## ADRIAN.

(Lenawee County.)

Alexander, W. B.  
 Baker, James H.  
 Baldwin, Clark E.  
 Bird, John E.  
 Bourne, H. I.  
 Clark, Herbert R.  
 Hart, B. L.  
 Jewitt, Henry R.  
 Michener, Earl C.  
 Robertson, Charles L.  
 Russell, Frank J.

## ALBION.

(Calhoun County.)

Cooper, Adrian F.  
 Loud, Edward R.  
 Peters, M. P.  
 Simon, Frank J.

## ALLEGAN.

(Allegan County.)

Cross, Orlen S.  
 Warner, Wm. W.

## ALMA.

(Gratiot County.)

Goggin, Charles H.  
 Green, James A.  
 Kress, James G.  
 Spinney, John D.

## ALPENA.

(Alpena County.)

Canfield, I. S.  
 Henry, Carl R.

## ANN ARBOR.

(Washtenaw County.)

Bates, Henry M.  
 Bonisteel, Roscoe O.  
 Bunker, Robt. E.  
 Burke, George J.  
 Cavanagh, M. J.  
 DeVine, Frank B.  
 Durfee, Edgar N.  
 Fahrner, Jacob F.  
 Forshee, Dewey M.  
 Goddard, Edwin C.  
 Haab, Otto E.  
 Holbrook, Evans.  
 Hutchins, Harry B.  
 Kinne, E. D.  
 Lane, Victor H.  
 Rigler, Ralph W.  
 Rood, John R.  
 Stivers, Frank A.  
 Sunderland, E. R.  
 Thomas, John D.  
 Van Amerigen, V. E.  
 Wilgus, H. L.

## ATLANTA.

(Montmorency County.)

Smith, Elmer G.

## BAD AXE.

(Huron County.)

Bope, Wm. T.  
 Clark, George M.

## BALDWIN.

(Lake County.)

Trucks, Ray.

## BATTLE CREEK.

(Calhoun County.)

Allen, Maxwell B.  
 Bailey, John W.  
 Beck, Ira A.  
 Cleary, James.  
 Cobb, N. A.  
 Davis, John C.  
 Eberstein, Clyde.  
 Ford, Albert N.  
 Goodrich, Cyrus J.  
 Hamilton, Burritt.  
 Hooper, Joseph L.  
 Jacobs, Henry F.  
 Kirschman, Robert H.  
 Knight, Willard A.  
 Leitch, R. G.  
 Ludlum, Roy M.  
 Main, Verner W.  
 Mechem, George W.  
 Mechem, J. Leland.  
 North, Walter H.  
 Onen, E. J.  
 Powers, Walter S.  
 Powers, James M.  
 Prescott, John S.  
 Sabin, Leland H.  
 Stewart, Louis E.  
 Thomas, Charles E.  
 Ware, William E.  
 Williams, Arthur B.

## BAY CITY.

(Bay County.)

Black, Albert W.  
 Clarke, E. S.  
 Collins, W. A.  
 Converse, J. E.  
 Duffy, James E.  
 Gaffney, Hubert J.  
 Henry, Wm. B.  
 Hewitt, John C.  
 Hitchcock, Charles W.  
 Houghton, Samuel C.  
 Kinnane, J. E.  
 McMillan, Archibald N.  
 Porter, Edward W.  
 Ryan, Vincent D.  
 Stoddard, John L.  
 Weadock, Lewis J.

**BELDING.**

(Ionia County.)

Hubbell, I. L.  
Warner, Fred L.**BENTON HARBOR.**

(Berrien County.)

Bridgman, George W.  
Gore, Victor M.  
Gray, Humphrey S.**BERRIEN SPRINGS.**

(Berrien County.)

Kavanagh, Charles W.

**BESSEMER.**

(Gogebic County.)

Baird, William S.

**BIG RAPIDS.**

(Mecosta County.)

Cogger, H. J.  
Cogger, Albert B.  
Dumon, John E.  
Worcester, Alpheus A.**BOYNE CITY.**

(Charlevoix County.)

Harris, J. M.  
Kuegsegger, E. A.**CADILLAC.**

(Wexford County.)

Ardis, Walter R.  
Breen, Fred M.  
Lamb, Fred S.  
Penny, A. W.  
Wetmore, Fred C.**CALUMET.**

(Houghton County.)

Galbraith, Wm. J.  
Kerr, John D.  
McNally, Eugene A.  
Peterman, Albert E.**CARO.**

(Tuscola County.)

Wixson, Walter S.

**CASSOPOLIS.**

(Cass County.)

Carr, John R.  
Cone, Chester E.  
Eby, V. S.  
Harmon, Charles O.  
Hayden, Asa K.  
Lyle, Clarence M.**CENTERVILLE.**

(St. Joseph County.)

Sloan, J. T.

**CHARLEVOIX.**

(Charlevoix County.)

Kane, R. W.  
Lewis, R. L.**CHARLOTTE.**

(Eaton County.)

McPeck, Russell R.  
Peters, Elmer N.  
Smith, J. M. C.**CHEBOYGAN.**

(Cheboygan County.)

Cross, Wm. N.  
McPhee, John D.  
Quay, Homer H.  
Reilley, C. S.  
Shepherd, Frank.  
Shepherd, James F.  
Sprague, Victor D.**CLARE.**

(Clare County.)

Perry, Charles W.

**COLDWATER.**

(Branch County.)

Barlow, Burt E.  
Champion, Charles V.  
Leveridge, Henry C.  
Palmer, Harold.  
Shipman, John B.  
Weage, Stanley E.**COLEMAN.**

(Midland County.)

Hyde, Ralph J.

**CONSTANTINE.**

(St. Joseph County.)

Thomas, Wilber F.

**CORUNNA.**

(Shiawassee County.)

McCurdy, John T.  
Parker, W. J.**CRYSTAL FALLS.**

(Iron County.)

Abbott, Fred H.

**DECKERVILLE.**

(Sanilac County.)

West, Robert J.

**DELRAY.**

(Wayne County.)

Coulson, Charles L.

**DETROIT.**

(Wayne County.)

Altland, D. F., Penobscot Bldg.  
Angell, Alexis C., Dime Bank Bldg.  
Antisdel, John F., Union Trust Bldg.  
Backus, Standish.  
Baker, F. A., Whitney Opera House Bldg.  
Barbour, Levi L., Buhl Block.  
Barnes, Stuart C., Moffat Block.  
Bartlett, Charles L., Hammond Bldg.  
Beaumont, John W., Ford Bldg.  
Behr, Fred A., 1026 Dime Bank Bldg.  
Benjamin, Maxwell W., 720 Dime Bank Bldg.

- Bissell, John H., 80 Griswold St.  
 Bland, J. Edward.  
 Bodman, Henry C., Union Trust Bldg.  
 Bogle, Henry C., Union Trust Bldg.  
 Bowen, Herbert, 33 Forest Ave.  
 Broomfield, Archibald, 98 Glynn Court.  
 Bulkley, Harry C., Union Trust Bldg.  
 Butzel, Leo M.  
 Butzel, Henry M., Union Trust Bldg.  
 Cady, William B., Union Trust Bldg.  
 Callender, Sherman D., Dime Bank Bldg.  
 Campbell, Arthur D., Majestic Bldg.  
 Campbell, Chas. H., Union Trust Bldg.  
 Campbell, Henry M., Union Trust Bldg.  
 Carpenter, Wm. L., Ford Bldg.  
 Chamberlain, Robt. M., Dime Bank Bldg.  
 Choate, Ward N., Dime Bank Bldg.  
 Clark, Levert, Buhl Block.  
 Clark, Joseph H., Hammond Bldg.  
 Codd, Geo. P., Hammond Bldg.  
 Cook, Frank C., 1223 Majestic Bldg.  
 Corliss, John B., Ford Bldg.  
 Covert, Arthur H., 1127 Majestic Bldg.  
 Cowles, Israel T., Union Trust Bldg.  
 Cyrowski, August, 702 Penobscot Bldg.  
 Denby, Edwin, Moffat Block.  
 Dickinson, Philip S., Penobscot Bldg.  
 Doetsch, Felix A., Union Trust Bldg.  
 Donovan, Percy J., Penobscot Bldg.  
 Donnelly, Edward, Ford Bldg.  
 Donovan, J. W.  
 Douglas, Samuel T., Moffat Bldg.  
 Duffield, Bethune, Union Trust Bldg.  
 Durfee, Edgar O., Probate Court.  
 England, Howell S., Dime Bank Bldg.  
 Essery, Carl V., Union Trust Bldg.  
 Finan, Carl B., Majestic Bldg.  
 Fitzpatrick, W. G.  
 Goff, John H., Union Trust Bldg.  
 Goodenough, L. W.  
 Graves, Henry B., Hammond Bldg.  
 Grawn, Carl B., 1109 Ford Bldg.  
 Gray, Robt. T., Ford Bldg.  
 Gray, Wm. J., Ford Bldg.  
 Groesbeck, A. J., Majestic Bldg.  
 Hall, A. B., Hammond Bldg.  
 Heineman, D. E., 1706 Dime Bank Bldg.  
 Helfman, Harry, Ford Bldg.  
 Hicks, Arthur P., 918 Ford Bldg.  
 Hill, Sherman A., Union Trust Bldg.  
 Hosmer, George S., Wayne County Bldg.  
 January, W. L., Buhl Block.  
 Jones, Arthur, Hammond Bldg.  
 Kenna, James T., Peoples State Bank Bldg.  
 Kuhn, Frans C., 1018 Majestic Bldg.  
 Lacy, A. J., Moffat Bldg.  
 Ladd, S. W., Union Trust Bldg.  
 Lechner, Julius J., Dime Bank Bldg.  
 Leete, Thomas T., Jr., 1424 Ford Bldg.  
 Lewis, Edwin C., Ford Bldg.  
 Lewis, Charles E., Union Trust Bldg.  
 Lightner, Clarence A., Dime Bank Bldg.  
 L'Mauer, Henry E., 471 Philip Ave.  
 Lockwood, Harry A., 1301 Ford Bldg.  
 Long, Thomas G., Ford Bldg.  
 Lucking, Alfred, Ford Bldg.  
 Lyster, Henry L., 1702 Ford Bldg.  
 McCorkle, Wm. F., Ford Bldg.  
 McDonald, Charles S., Hammond Bldg.  
 McDonald, James H., 1323 Woodward Ave.  
 McGregor, Malcolm, Penobscot Bldg.  
 McHugh, Philip A., Majestic Bldg.  
 MacKay, John D., Dime Bank Bldg.  
 McKee, Mark T., 937-9 Dime Bank Bldg.  
 McMillan, Phillip H.  
 McNamara, James, 2026 Dime Bank Bldg.  
 Maguire, Arthur D., Hammond Bldg.  
 Manchester, Wm. C., Dime Bank Bldg.  
 Marsh, Pliny W., Free Press Bldg.  
 Merriam, S. L., Penobscot Bldg.  
 Miller, Sidney T., Penobscot Bldg.  
 Mills, Wade, 1403-7 Ford Bldg.  
 Monaghan, Geo. F., Majestic Bldg.  
 Moody, Paul B., Ford Bldg.  
 Moody, Frank B.  
 Moore, Geo. Wm., Campau Bldg.  
 Moore, Wm. V., Wayne Co. Sav. Bank Bldg.  
 Mulford, Benj. F., Dime Bank Bldg.  
 Murfin, James O., Dime Bank Bldg.  
 Nutton, Wesley L., 1540 Penobscot Bldg.  
 O'Brien, M. Hubert.  
 O'Hara, John P., 1206 Majestic Bldg.  
 Oxtoby, James V., Dime Bank Bldg.  
 Paddock, Lewis H., Penobscot Bldg.  
 Paine, DeForest, Penobscot Bldg.  
 Parker, R. A., Moffat Block.  
 Pendleton, E. W., Dime Bank Bldg.  
 Perry, George B., Penobscot Bldg.  
 Perry, Judson, 619 Moffat Block.  
 Prentiss, Geo. H., Dime Bank Bldg.  
 Primeau, Joseph H., Jr., 2524 Jefferson Ave.  
 Rexford, D. C., Buhl Block.  
 Rosenberg, Louis J., Ford Bldg.  
 Russell, Henry, M. C. R. R. Depot.  
 Selling, B. B., Hammond Bldg.  
 Shipman, F. C., Union Trust Bldg.  
 Sloman, Adolph, Penobscot Bldg.  
 Sloman, Edmund, Penobscot Bldg.  
 Smith, James Crosslett, Penobscot Bldg.  
 Smith, Hal H., Ford Bldg.  
 Snyder, Emil W., Majestic Bldg.  
 Spalding, H. E., Dime Bank Bldg.  
 Standart, Joseph, 420 Farwell Bldg.  
 Stein, Christopher E., Police Court.  
 Stellwagen, A. C., Home Bank Bldg.  
 Stone, Ralph, Detroit Trust Co. Bldg.  
 Swan, James, McGraw Bldg.  
 Taylor, Ora B., 13 Butler Bldg.  
 Torbert, Hugh L., Dime Bank Bldg.  
 Turner, James, Union Trust Bldg.  
 Tuttle, Arthur J., Federal Bldg.  
 Walters, Henry C., Ford Bldg.  
 Walling, Eugene A., 2011 Dime Bank Bldg.  
 Warren, Benj. S., 1205 Ford Bldg.  
 Warren, Charles B., Union Trust Co. Bldg.  
 Weadock, Thomas A. E., Hammond Bldg.  
 Weadock, Bernard F., 12 Woodward Ave.  
 Webster, Clyde I., County Bldg.  
 Welsh, Charles F.  
 Wilkins, Charles T., Hammond Bldg.

## PROCEEDINGS OF

Woodruff, Charles M., 475 Grand  
Boulevard E.  
Wunsch, Henry, Moffat Bldg.  
Yerkes, Geo. B., Home Bank Bldg.

**DOWAGIAC.**  
(Cass County.)

Hendryx, Coy M.  
Laing, E. Bruce.  
Mosier, Carl D.

**DURAND.**  
(Shiawassee County.)

Atherton, E. S.

**EAST JORDAN.**  
(Charlevoix County.)

Wilson, Dwight L.

**EAST TAWAS.**  
(Iosco County.)

French, Fremont F.  
Lyon, Charles A.

**EATON RAPIDS.**  
(Eaton County.)

Hendee, J. B.

**ESCANABA.**  
(Delta County.)

Baker, James C.  
Dotsch, Henry R.  
Pierson, Alfred P.  
Riley, Thomas J.  
Rushton, H. J.  
Ryall, Arthur H.  
Torval, E. Strom.  
Yelland, Judd.

**FLINT.**  
(Genesee County.)

Aitkin, D. D.  
Baker, John F.  
Carton, John J.  
Cook, George W.  
Helmes, Daniel E.  
Lee, Ed. S.  
McBride, Homer J.  
McFarlan, James H.  
Parker, James S.  
Roberts, Clinton.  
Selby, Guy W.  
Smith, William V.  
Stevens, Mark W.  
Tanner, Elwyn.  
Travis, DeHull N.

**FLUSHING.**  
(Genesee County.)

Sayre, F. P.

**FREMONT.**  
(Newaygo County.)

White, Milo A.

**GLADSTONE.**  
(Delta County.)  
Empson, G. Raymond.  
on, Glenn W.

**GRAND HAVEN.**  
(Ottawa County.)

Lillie, Walter I.  
Lillie, Leo C.  
Lillie, Hugh E.  
Osterhaus, Louis H.

**GRAND LEDGE.**  
(Eaton County.)

Alexander, Cassius.  
Latting, Raymond A.

**GRAND RAPIDS.**  
(Kent County.)

Backus, Ella M., Govt. Bldg.  
Blair, Charles B., Mich. Trust Bldg.  
Boltwood, Lucius, Mich. Trust Bldg.  
Bradfield, Thomas P.  
Brooks, Walter H.  
Brown, George C.  
Butterfield, Roger W., Mich. Trust  
Bldg.  
Butterfield, Roger C., Mich. Trust  
Bldg.  
Campau, Francis D., Mich. Trust  
Bldg.  
Campbell, Colln P., Widdicomb Bldg.  
Carmody, Martin H., Houseman Bldg.  
Carpenter, Eugene, Houseman Bldg.  
Chase, Henry E.  
Clapperton, George, Mich. Trust Bldg.  
Clute, Wm. K., Mich. Trust Bldg.  
Corwin, B. M., Houseman Bldg.  
Cunningham, Paul E., 411 Houseman  
Bldg.  
Denison, A. C., Govt. Bldg.  
Dunham, John M.  
Ellis, A. A., Houseman Bldg.  
Ellis, Howard A., Houseman Bldg.  
Gelb, Fred P., Houseman Bldg.  
Gleason, Clark H.  
Harrington, Leon W., Mich. Trust  
Bldg.  
Hatch, Reuben, Widdicomb Bldg.  
Heald, Henry T., Mich. Trust Bldg.  
Hext, Charles E., 4th Nat'l. Bank  
Bldg.  
Higbee, Clark E., City Hall.  
Hoffus, Cornelius.  
Jewell, Harry D.  
Keeney, Willard F., Mich. Trust Bldg.  
Kleinhans, Jacob, Mich. Trust Bldg.  
Knappen, Loyal E., Govt. Bldg.  
Knappen, Stuart E., Mich. Trust  
Bldg.  
Landman, W. J., Housemann Bldg.  
Lawrence, J. S.  
Lillie, Charles H.  
Lombard, James A., 4th Nat'l. Bank  
Bldg.  
McDonald, J. S., Court House.  
McKnight, W. F., Wonderly Bldg.  
McPherson, Charles, Mich. Trust Bldg.  
Maher, Edgar A., Aldrich Block.  
Mapes, Carl E.  
Maynard, F. A.  
Merrick, Benj. P., Mich. Trust Co.  
Bldg.  
Moulton, Luther V.  
Narcross, Geo. S.  
Norris, Mark, Mich. Trust Co. Bldg.  
O'Brien, T. J., Mich. Trust Co. Bldg.  
Perkins, Willis B., Court House.  
PHELPS, Earl F., Court House.

Rice, Cyrus W.  
 Schurts, Shelby B.  
 Shaw, Frank E.  
 Smedley, C. O., Houseman Bldg.  
 Smith, William Alden.  
 Souter, H. Dale.  
 Stace, Francis A.  
 Taggart, Ganson, Mich. Trust Co.  
 Bldg.  
 Temple, Charles E., Mich. Trust Co.  
 Bldg.  
 Travis, P. H., Mich. Trust Co. Bldg.  
 Uhl, Marshall M.  
 Walker, Myron H., Federal Bldg.  
 Ward, Charles E.  
 Warner, David A., Mich. Trust Co.  
 Bldg.  
 Watkins, Roy M.  
 Wicks, Kirk E., Houseman Bldg.  
 Wilson, Hugh E., Mich. Trust Co.  
 Bldg.  
 Wolf, G. A., Mich. Trust Co. Bldg.  
 Wykes, Roger L., Mich. Trust Co.  
 Bldg.

## GRAYLING.

(Crawford County.)

Alexander, Geo. L.

## GREENVILLE.

(Montcalm County.)

Bowman, E. J.  
 Cook, Martin V.  
 Griswold, N. O.  
 Lewis, Milo.

## HANCOCK.

(Houghton County.)

Burritt, B. H. T.  
 Burritt, W. A.  
 Hanchette, Charles D.  
 Olivier, Charles O.

## HARRISON.

(Clare County.)

Morrissey, Francis M.

## HART.

(Oceana County.)

Greene, Leslie E.  
 Hanson, W. S.  
 Pugsley, Earl C.

## HASTINGS.

(Barry County.)

Andrus, Roy.  
 Colgrove, P. T.  
 Potter, W. W.  
 Smith, Clement.

## HILLSDALE.

(Hillsdale County.)

Fitzpatrick, Merton.  
 Frankhauser, W. H.  
 Grommon, W. D.  
 Guernsey, A. L.  
 Hall, Frank M.  
 Riggs, J. Culver.

## HOLLAND.

(Ottawa County.)

Diekema, G. J.  
 Miles, Fred T.  
 Robinson, Thomas N.  
 Visser, Raymond.

## HOMER.

(Hillsdale County.)

Nichols, Myron H.

## HOUGHTON.

(Houghton County.)

Legris, Louis W.  
 Rees, Allen F.  
 Robinson, Deen L.  
 Schulte, H. C.  
 Sheldon, Skiff R.  
 Stone, John G.  
 Welder, Herman A.

## HUDSON.

(Lenawee County.)

Chandler, Bert D.

## IONIA.

(Ionia County.)

Colwell, R. A.  
 Eldred, Foss O.  
 Gemuend, H. H.  
 Locke, Alfred R.  
 Mathews, Glenn D.  
 Miller, F. C.  
 Morse, Allen B.  
 Nichols, George E.  
 Smith, Laurence W.

## IRON MOUNTAIN.

(Dickinson County.)

Pelham, H. M.  
 Spencer, James R.  
 Woodward, E. A.

## IRON RIVER.

(Iron County.)

Byers, J. W.  
 Dixon, A. F.  
 McHale, John.  
 Power, George S.  
 Ritze, C. C.  
 Waffin, A. J.

## IRONWOOD.

(Gogebic County.)

Bag, Harry K.  
 Driscoll, George O.  
 Fryburger, Raymond A.  
 Humphrey, Charles M.  
 O'Neill, James A.  
 Storkan, E. E.  
 Waples, H. J.

## ISHPEMING.

(Marquette County.)

Berg, Fred H.  
 Clancey, Thomas.  
 Kennedy, Michael J.  
 Potter, Waldo T.

## ITHACA.

(Gratiot County.)

Mathews, John T.  
Myers, John W.  
Searle, Kelly S.  
Smith, O. L.  
Stone, John P.

## JACKSON.

(Jackson County.)

Adams, James M.  
Badgley, Forest C.  
Bancker, Enoch.  
Barkworth, T. E.  
Kirkby, Elmer.  
Parkinson, J. A.  
Price, Richard.  
Reece, Albert O.  
Westerman, Walter S.  
Wolcott, Grove H.  
Worch, Rudolph.

## JONESVILLE.

(Hillsdale County.)

Hawkins, Victor.

## KALAMAZOO.

(Kalamazoo County.)

Adams, John W.  
Boudeman, Dallas.  
Briggs, Henry C.  
Campbell, Robert I.  
Carney, Claude S.  
Chappell, Fred L.  
Dibble, Charles L.  
Earl, Otis A.  
Falling, Glenn R.  
Farrell, Charles H.  
Fitzgerald, Wm. L.  
Ford, Frank E.  
Frost, Alfred S.  
Hopkins, George P.  
Howard, Harry C.  
Irish, E. M.  
Jackson, St. Clair.  
Ketcham, Clyde W.  
Mason, Lynn B.  
Mills, A. J.  
Schuur, R. Paul.  
Shaberg, Martin J.  
Sharpe, D. B.  
Stewart, Gordon L.  
Stewart, N. H.  
Taylor, Walter R.  
Van Horn, S. H.  
Wattles, Stephen M.  
Wattles, I. N.  
Welmer, George V.  
Weston, Frank S.

## KALKASKA.

(Kalkaska County.)

Boyd, J. L.

## LAKE CITY.

(Missaukee County.)

Engel, Albert J.  
Miltner, Henry M.

## L'ANSE.

(Baraga County.)

Brennan, Hubert A.  
O'Connor, Joseph J.

## LANSING.

(Ingham County.)

Berry, John F.  
Black, Allan R.  
Bolce, J. Arthur.  
Brown, Wm. C.  
Brown, J. Earle.  
Cahill, Edward.  
Carbaugh, W. J.  
Collingwood, C. B.  
Cummins, Alva M.  
Dodge, Frank L.  
Dunnebacke, Joseph H.  
Fellows, Grant.  
Foster, Walter S.  
Foster, Charles W.  
Haight, Charles F.  
Hammond, Charles F.  
Hammond, Eugene T.  
Hayden, Charles Howe.  
Kelley, Spencer D.  
Kelley, Patrick H.  
Kelly, Samuel D.  
McArthur, L. B.  
McClellan, John.  
McGill, Chas. W.  
Montgomery, Stanley D.  
Moore, Joseph B.  
Nichols, Charles W.  
Ostrander, Russell C.  
Person, Seymour H.  
Raudabaugh, Richard.  
Reasoner, James M.  
Reynolds, Carl H.  
Rhoads, S. H.  
Seelye, W. S.  
Shields, Edmund C.  
Silsbee, Harry A.  
Steere, J. H.  
Steinkohl, Wm. F.  
Stone, John W.  
Thomas, Harris E.  
Warner, D. G. F.  
Wiest, Howard.

## LAPEER.

(Lapeer County.)

Brown, Wm. E.  
Williams, Wm. B.

## LAURIUM.

(Houghton County.)

O'Brien, P. H.

## LUDINGTON.

(Mason County.)

Danaher, M. B.  
Kaiser, A. A.  
Matthews, K. B.  
Phelan, John.  
Quail, Robert J.

## MANCELONA.

(Antrim County.)

Wellman, H. E.

**MANISTEE.**

(Manistee County.)

Belcher, Charles N.  
Campbell, Howard L.  
Neal, Max E.  
Overpack, Roy M.  
Smith, R. W.

**MANISTIQUE.**

(Schoolcraft County.)

Hixson, Virgil L.  
Johnson, Gottfried S.

**MARCELLUS.**

(Cass County.)

Jones, Walter C.

**MARQUETTE.**

(Marquette County.)

Ball, Dan H.  
Clark, Harlow A.  
Eldredge, Ralph R.  
Eldredge, A. B.  
Garvin, L. E.  
Hatch, Harvey Burright  
Macdonald, E. A.  
Miller, A. E.  
Sherwood, M. J.

**MARSHALL.**

(Calhoun County.)

Cortright, Clyde.  
Mackey, James W.  
Miller, Charles O.  
Porter, Wm. H.  
Robinson, Carl A.  
Windsor, Herbert E.

**MENOMINEE.**

(Menominee County.)

Haggerson, Fred H.  
O'Hara, John J.

**MIDLAND.**

(Midland County.)

Fales, Ira.  
Gordon, Wm. D.  
Stanford, George B.

**MONROE.**

(Monroe County.)

Gilday, Edward.  
Kolb, Clifton M.

**MORENCI.**

(Lenawee County.)

Bauman, H. Thane.  
Murphy, Thomas F.

**MT. CLEMENS.**

(Macomb County.)

Jenney, Wm. S.  
Kelly, William T.  
Miller, Frederick C.  
Nunneley, B. V.

**MT. PLEASANT.**

(Isabella County.)

Dodds, Francis H.  
Dodds, Peter F.

**MUSKEGON.**

(Muskegon County.)

Carpenter, William.  
Farmer, Edward C.  
Jackson, Harry W.  
Ross, John Q.

**NEGAUNEE.**

(Marquette County.)

Bell, Frank A.  
Edgerton, J. M.

**NEWBERRY.**

(Luce County.)

Fead, Louis H.

**NILES.**

(Berrien County.)

Bacon, N. H.  
Burns, Wilber N.  
Coolidge, O. W.

**NORTHVILLE.**

(Wayne County.)

Yerkes, C. C.

**NORWAY.**

(Dickinson County.)

Brackett, A. F.  
Flannigan, R. C.  
Turner, Raymond.

**ONTONAGON.**

(Ontonagon County.)

Jones, John.  
Walsh, John J.

**OID.**

(Clinton County.)

Hunter, George G.

**OWOSSO.**

(Shiawassee County.)

Pardee, George E.  
Pierpont, Warren.  
Pulver, Seth Q.  
Seegmiller, W. A.

**OXFORD.**

(Oakland County.)

Jenkins, Frank E.

**PAW PAW.**

(Van Buren County.)

Anderson, David.  
Burhans, Earl L.  
Cavanaugh, Thos. J.  
Free, A. Lynn.  
Warner, Glenn E.

**PELLSTON.**

(Emmet County.)

Keating, Frank L.

**PETOSKEY.**

(Emmet County.)

Miller, Leon W.  
Pallthorp, C. J.

## PIGEON.

(Huron County.)

Sauer, Alfred H.

## PONTIAC.

(Oakland County.)

Cambrey, Leman A.  
 Doty, Frank L.  
 Fredenberg, J. A.  
 Heitsch, Robert D.  
 Lynch, James H.  
 McGee, Clinton.  
 Patterson, John H.  
 Rockwell, K. P.  
 Stockwell, Elmer E.  
 Tillson, John A.  
 Webster, Elmer B.

## PORT HURON.

(St. Clair County.)

Avery, Lincoln.  
 Benedict, C. L.  
 Cady, B. D.  
 Carrigan, Don R.  
 Hughes, Isaac S.  
 Kane, Patrick H.  
 Law, Eugene F.  
 Moore, Alex.  
 Phillips, P. H.  
 Schell, F. R.  
 Souter, Robert M.  
 Stewart, Shirley.  
 Walsh, Joseph.  
 Walsh, William R.  
 Wilson, J. Frank.

## RICHMOND.

(Macomb County.)

David, Carl.

## ROMEO.

(Macomb County.)

McKay, Henry J.

## ROSCOMMON.

(Roscommon County.)

Smith, Hiram R.

## ST. IGNACE.

(Mackinac County.)

Browne, Prentiss M.

## ST. JOHNS.

(Clinton County.)

Moinet, E. J.  
 Smith, Wm. M.  
 Walbridge, H. E.

## ST. JOSEPH.

(St. Joseph County.)

Banyon, Willard J.  
 Preston, Loomis K.

## ST. LOUIS.

(Gratiot County.)

Wright, James K.

## SAGINAW.

(Saginaw County.)

Cook, Robert H.  
 Crane, R. L.  
 Crane, Wm. E.  
 Davis, Geo. W.  
 Durand, L. T.  
 Gage, Wm. G.  
 Grant, George.  
 Humphrey, George M.  
 Naegely, Henry E.  
 Otto, H. A.  
 Peter, James B.  
 Smith, Wallis Craig.  
 Thayer, Russell B.  
 Vincent, Bird J.  
 Weadock, George L.  
 Weadock, George W.  
 Weadock, Jerome J.  
 Weadock, John W.  
 Wilson, Floyd A.

## SANDUSKY.

(Sanilac County.)

Gates, Charles F.  
 McKenzie, Robert W.  
 Simonson, Alex. B.

## SAUGATUCK.

(Allegan County.)

Gardner, W. R.

## SAULT STE. MARIE.

(Chippewa County.)

Green, Thomas J.  
 Handy, Sherman T.  
 Hudson, Robert P.  
 Kaltz, B. Frank.  
 McDonald, Francis T.  
 Sullivan, Frank P.  
 Warner, Frank R.  
 Wiley, Merlin.

## SEBEWAING.

(Huron County.)

Pengra, Otis.

## SOUTH HAVEN.

(Van Buren County.)

Chandler, James E.  
 Cogshall, F. C.

## STANTON.

(Montcalm County.)

Palmer, L. C.

## STURGIS.

(St. Joseph County.)

Britton, D. M.  
 Hagerman, Roy H.

## TAWAS CITY.

(Iosco County.)

Flynn, Wm. H.  
 Hartnigh, Nicholas C.  
 Snyder, C. H. W.  
 Widdis, Albert.

**THREE RIVERS.**

(St. Joseph County.)

Pealer, Russell R.

**TRAVERSE CITY.**

(Grand Traverse County.)

Alway, C. D.  
Connine, Ward B.  
Davis, H. C.  
Duncan, J. O.  
Gilbert, Farms C.  
Patchin, J. W.  
Tweddle, L. J.  
Underwood, M. W.

**VASSAR.**

(Tuscola County.)

Spears, W. J.

**WEST BRANCH.**

(Ogemaw County.)

Harris, E. M.

**WILLIAMSTON.**

(Ingham County.)

King, Clyde V.

**WOLVERINE.**

(Cheboygan County.)

Barghoorn, C. D.

**YPSILANTI.**

(Washtenaw County.)

Hatch, W. B.  
Kirk, John P.

**OUTSIDE OF MICHIGAN.**

Belden, William P., Rockefeller Bldg.,  
Cleveland, Ohio.  
Moore, George G., 52 Vanderbilt Ave.,  
New York City, N. Y.  
Wendock, 14 Wall St., New York City.

## LIST OF DECEASED MEMBERS.

## WITH DATE OF DEATH.

- Adams, Oscar, Cheboygan. (See p. 114, Proceedings of 1903.)  
 Alexander, Chas. T., Detroit.  
 Atkinson, John, Detroit, Aug. 14, 1902. (See p. 119, Proceedings of 1903.)  
 Atkinson, O'Brien J., Port Huron. (See p. 35, Proceedings of 1902.)  
 Babbitt, J. W., Ypsilanti. (See p. 35, Proceedings of 1902.)  
 Ball, James E., Marquette. (See p. 148, Proceedings of 1914.)  
 Baker, Orlando H., Saginaw. (See p. —, Proceedings of 1912.)  
 Bean, Seth, Adrian. (See pp. 28 and 114, Proceedings of 1903.)  
 Beaver, Theo. G., Niles, Sept. 1, 1906. (See p. 68, Proceedings of 1910.)  
 Black, Hon. C. F., Lansing, Oct. 13, 1916. (Proceedings of 1917.)  
 Blair, Charles A., Lansing. (See p. —, Proceedings of 1912.)  
 Brennan, Michael, Detroit, Dec. 11, 1905. (See p. 81, Proceedings of 1906.)  
 Brooks, John M., Saginaw, March 26, 1904. (See p. 70, Proceedings of 1904.)  
 Brooks, Melville D., Saginaw. (See p. 149, Proceedings of 1914.)  
 Brown, Benjamin J., Menominee, Jan. 9, 1905. (See p. 69, Proceedings of 1905.)  
 Brown, Henry B., Washington, D. C. (See Report of Historical Committee, 1913.)  
 Browne, Thos. W., Kalamazoo, July 9, 1910.  
 Bundy, McGeorge, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Butler, Jefferson, Detroit. (See p. —, Proceedings of 1914.)  
 Canfield, Hon. F. H., Detroit, March 9, 1916.  
 Carpenter, Henry B., Lansing, Aug. 5, 1905. (See p. 89, Proceedings of 1906.)  
 Chambers, F. H., Detroit. (See p. 35, Proceedings of 1902.)  
 Chadbourne, T. L., Houghton, April 18, 1911. (See Report of Historical Committee, 1911.)  
 Champlin, John W., Grand Rapids, July 24, 1901. (See p. 119, Proceedings of 1903.)  
 Chatterton, Mason D., Lansing, Oct. 27, 1903. (See p. 73, Proceedings of 1904.)  
 Cheever, Noah Wood, Ann Arbor, July 20, 1905. (See p. 87, Proceedings of 1906.)  
 Clark, Frederick O., Marquette. (See p. 85, Proceedings of 1906.)  
 Clute, Lemuel, Ionia. (See p. 35, Proceedings of 1902.)  
 Cobb, George P., Bay City. (See Report of Historical Committee, 1913.)  
 Collins, Hon. Chester L., 1916. (See Proceedings of 1916.)  
 Conley, Edwin F., Detroit, April 20, 1902. (See p. 115, Proceedings of 1903.)  
 Cooley, Edgar A., Bay City. (See p. 149, Proceedings of 1914.)  
 Constantine, S. M., Three Rivers, September, 1908.  
 Crocker, Thomas M., Mt. Clemens. (See p. 114, Proceedings of 1903.)  
 Cruickshank, A. D., Charlevoix. (See p. 114, Proceedings of 1903.)  
 Cumiskoy, John, Escanaba. (See Report Historical Committee, 1913.)  
 Cutcheon, S. M., Detroit, April 18, 1900. (See p. 121, Proceedings of 1903.)  
 Dickinson, Julian, Detroit, Jan. 11, 1916. (See Proceedings of 1916.)  
 Dooling, John C., St. Johns, Feb. 28, 1903. (See p. 68, Proceedings of 1910.)  
 Doran, Peter, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Drury, Horton H., Grand Rapids, March 18, 1909. (See p. 69, Proceedings of 1910.)  
 Duffield, Henry M., Detroit. (See p. —, Proceedings of 1912.)  
 Durand, Geo. H., Flint. (See p. 114, Proceedings of 1903.)  
 Eddy, L. P., Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Eldredge, J. B., Mt. Clemens. (See p. 35, Proceedings of 1902.)  
 Evans, W. T., Pentwater. (See p. 28, Proceedings of 1903.)  
 Felker, Henry J., Grand Rapids. (See p. 28, Proceedings of 1903.)  
 Fedewa, John H., St. Johns, Jan. 27, 1901. (See p. 121, Proceedings of 1903.)  
 Fletcher, Hiram A., Grand Rapids, Aug. 15, 1899. (See p. 120, Proceedings of 1903.)  
 Fox, Wm. D., Detroit, May 1, 1911. (See Report of Historical Committee of 1911.)  
 Fowler, George B., Detroit, November 23, 1916.  
 Fowler, Frank L., Manistee (Chicago). (See p. 149, Proceedings of 1914.)  
 Fraser, Robert E., Detroit, May 9, 1908. (See p. 69, Proceedings of 1910.)  
 Fuller, C. C., Big Rapids, Dec. 23, 1906. (See p. 69, Proceedings of 1910.)  
 Fuller, Wm. D., Grand Rapids, March 20, 1908. (See p. 80, Proceedings of 1908.)  
 Fyfe, L. C., St. Joseph, Nov. 15, 1909. (See p. 69, Proceedings of 1910.)

- Gage, Chauncey H., Saginaw, April 8, 1909. (See p. 70, Proceedings of 1910.)  
 Gates, Hon. Jasper C., Detroit, January 8, 1916.  
 Gillett, Hon. H. M., Bay City, April 16, 1917. (Proceedings, 1917.)  
 Goss, Dwight, Grand Rapids, March 20, 1909. (See p. 70, Proceedings of 1910.)  
 Gott, Edward A., Detroit, May 9, 1904. (See p. 78, Proceedings of 1904.)  
 Graves, Benj. F., Detroit, March 3, 1906. (See p. 77, Proceedings of 1906.)  
 Graves, Frank P., St. Joseph, July 8, 1915. (Proceedings, 1917.)  
 Griffin, Levi Thos., Detroit, March 17, 1906. (See p. 83, Proceedings of 1906.)  
 Gundry, Clare M., Flint, April, 1917.  
 Haggerty, Wm. H., Grand Rapids, March 31, 1904. (See p. 77, Proceedings of 1904.)  
 Hall, Devere, Bay City. (See p. 150, Proceedings of 1914.)  
 Harmon, Henry A., Detroit. (See p. —, Proceedings of 1912.)  
 Harris, John M., Saginaw, Feb. 25, 1906. (See p. 88, Proceedings of 1906.)  
 Hawley, J. G., Detroit, Aug. 17, 1900. (See p. 120, Proceedings of 1903.)  
 Hayden, George, Ishpeming. (See p. 114, Proceedings of 1903.)  
 Hewitt, Adolphus, Jackson. (See p. —, Proceedings of 1912.)  
 Higgins, S. G., Saginaw. (See p. —, Proceedings of 1903.)  
 Holmes, Glenn W., Grand Rapids. (See p. 150, Proceedings of 1914.)  
 Hooker, Frank A., Lansing. (See p. —, Proceedings of 1912.)  
 Hopkins, George H., Detroit, March 6, 1906. (See p. 84, Proceedings of 1906.)  
 Hopkins, Joel C., Battle Creek, April 29, 1907. (See p. 80, Proceedings of 1908.)  
 Howard, Wm. G., Kalamazoo, Aug. 8, 1906. (See p. 81, Proceedings of 1908.)  
 Hoyt, Burney, Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Hoyt, Hiram J., Muskegon, May 17, 1909. (See p. 70, Proceedings of 1910.)  
 Hulbert, Stephen S., Battle Creek, May 15, 1904. (See p. 78, Proceedings of 1904.)  
 Humphrey, Watts S., Saginaw, 1916. (See Proceedings of 1916.)  
 Hunter, F. W., Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Huston, B. W., Vassar. (See p. 35, Proceedings of 1902.)  
 Jennings, Ira C. (See Report of Historical Committee, 1915.)  
 Jackson, James A., Pontiac. (See p. 82, Proceedings of 1908.)  
 Johnson, Andrew W., Grand Rapids. (See p. 152, Proceedings of 1914.)  
 Killie, Ronald, Detroit. (See p. 151, Proceedings of 1914.)  
 Knappen, Frank E., Kalamazoo. (See Report Historical Committee, 1913.)  
 Kingsley, Willard, Grand Rapids. (See Report Historical Committee, 1913.)  
 Knight, Seth M., Mt. Clemens, July 11, 1910. (See p. 70, Proceedings of 1910.)  
 Knowlton, Prof. Jerome C., Ann Arbor, Dec., 1916. (Proceedings, 1917.)  
 Landon, Geo. M., Monroe. (See Report Historical Committee, 1913.)  
 Lee, Jay P., Lansing. (See p. 35, Proceedings of 1902.)  
 Lillibridge, W. M., Detroit, Oct. 2, 1904. (See p. 67, Proceedings of 1905.)  
 Lockton, Andrew W., Battle Creek, April 5, 1904. (See p. 77, Proceedings of 1904.)  
 Long, Chas. D., Lansing. (See p. 35, Proceedings of 1902.)  
 Lovell, Henry R., Flint. (See p. 68, Proceedings of 1905.)  
 Lowell, Dwight N., Romeo. (See p. 83, Proceedings of 1908.)  
 Maybury, Wm. C., Detroit, May 6, 1909. (See p. 70, Proceedings of 1910.)  
 Moore, William A., Detroit, Sept. 26, 1906. (See p. 84, Proceedings of 1908.)  
 McAlvay, A. V., Lansing, July 10, 1915. (See Proceedings of 1916.)  
 McCarthy, John J., Standish. (See Report Historical Committee, 1913.)  
 McGrath, J. W., Detroit, Dec. 9, 1905. (See p. 78, Proceedings of 1906.)  
 McMath, J. W., Bay City. (See p. 35, Proceedings of 1902.)  
 Mend, F. D., Escanaba. (See p. 151, Proceedings of 1914.)  
 Meddaugh, Elijah W., Detroit, December 20, 1903. (See p. 74, Proceedings of 1904.)  
 Metzger, Henry F., Sault Ste. Marie, Jan. 9, 1905. (See p. 68, Proceedings of 1905.)  
 Nichols, M. A., Grand Rapids. (See p. —, Proceedings of 1912.)  
 Oren, Horace M., Sault Ste. Marie. (See p. —, Proceedings of 1912.)  
 Osborn, W. J., Kalamazoo. (See Report Historical Committee, 1915.)  
 Palmer, L. G., Big Rapids, Jan. 4, 1911. (See Report of Historical Committee, 1911.)  
 Patton, John, Grand Rapids, May 24, 1907. (See p. 85, Proceedings of 1908.)  
 Patterson, John C., Marshall, May 24, 1910. (See p. 71, Proceedings of 1910.)  
 Peck, Erastus, Jackson, Jan. 22, 1904. (See p. 75, Proceedings of 1904.)  
 Perry, Milton M., Lowell. (See p. —, Proceedings of 1912.)  
 Person, Rollin H., Lansing, June 2, 1917. (Proceedings, 1917.)  
 Peters, Frank H., Manistique. (See p. 35, Proceedings of 1902.)  
 Pratt, Edwin S., Traverse City, June 5, 1911. (See Report of Historical Committee, 1911.)  
 Pringle, Eugene, Jackson, June 15, 1908. (See Report of Historical Com., 1911.)  
 Priddy, Frank E., Adrian, Feb. 25, 1909. (See p. 71, Proceedings of 1910.)  
 Rood, Arthur R., Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Russell, F. G., Detroit. (See p. 35, Proceedings of 1902.)  
 Russell, Alfred, Detroit. (See p. 80, Proceedings of 1906.)  
 Russell, Charles T., Mt. Pleasant. (See Report Historical Committee, 1915.)  
 Savidge, B. N., Reed City, November, 1915.

- Shaw, John C., Detroit, Jan. 23, 1911. (See Report of Historical Committee, 1911.)
- Shepard, Theodore F., Bay City. (See p. —, Proceedings of 1912.)
- Smith, Charles H., Manilla, P. I. (See Report Historical Committee, 1913.)
- Smith, Chas. S., Saginaw, Dec. 22, 1908. (See p. 86, Proceedings of 1908.)
- Smith, Francis, Muskegon. (See p. 114, Proceedings of 1903.)
- Smith, Henry C., Adrian. (See p. —, Proceedings of 1912.)
- Smith, Quincy A., Lansing, Oct. 3, 1907. (See p. 86, Proceedings of 1908.)
- Smith, Vernon, Ionia. (See p. 87, Proceedings of 1908.)
- Speed, John J., Detroit. (See p. 152, Proceedings of 1914.)
- Stearns, A. M., Kalamazoo. (See Report Historical Committee, 1912.)
- Stevens, Herman W., Port Huron, M. 15, 1907. (See p. 88, Proceedings of 1908.)
- Straker, D. Augustus, Detroit, Feb. 14, 1908. (See p. 89, Proceedings of 1908.)
- Stuart, W. J., Grand Rapids. (See Report Historical Committee, 1915.)
- Streeter, A. T., Houghton. (See Report Historical Committee, 1915.)
- Snow, Byron Albert, Saginaw, May 5, 1905. (See p. 70, Proceedings of 1905.)
- Sweet, Charles E., Dowagiac. (See Report Historical Committee, 1913.)
- Tabor, L. A., Lawton. (See p. —, Proceedings of 1912.)
- Tarsney, Timothy Edw., Detroit, June, 1909. (See p. 71, Proceedings of 1910.)
- Thompson, Charles E., Bad Axe., March 27, 1907. (See p. 90, Proceedings of 1908.)
- Thompson, Guy B., Detroit. (See p. 35, Proceedings of 1902.)
- Thornton, Howard A., Grand Rapids. (See Report Historical Committee, 1915.)
- Thrall, C. H., Big Rapids. (See p. 35, Proceedings of 1902.)
- Uhl, Edwin F., Grand Rapids, May 17, 1902. (See p. 119, Proceedings of 1903.)
- Vance, Samuel W., Port Huron. (See p. 35, Proceedings of 1902.)
- Van Riper, Jacob J., Niles. (See Report Historical Committee, 1913.)
- Wanty, Geo. P., Grand Rapids, July 9, 1906. (See p. 90, Proceedings of 1908.)
- Ward, John, Detroit. (See p. 35, Proceedings of 1902.)
- Warner, Carlos E., Detroit. (See p. 120, Proceedings of 1903.)
- Watson, Lewis, Detroit. (See p. 35, Proceedings of 1902.)
- Weaver, Clement E., Adrian, April 6, 1906. (See p. 86, Proceedings of 1906.)
- Whipple, Frank, Port Huron. (See p. 35, Proceedings of 1902.)
- Wicksall, Guy J., South Haven, Dec., 1910. (See Report of Historical Com., 1911.)
- Wilson, Hon. Thos. A., Jackson.
- Wilson, Charles M., Grand Rapids, June 20, 1917. (Proceedings, 1917.)
- Wolcott, Alfred, Grand Rapids, March 8, 1908. (See p. 92, Proceedings of 1908.)
- Wolcott, L. W., Grand Rapids, March 29, 1909. (See p. 72, Proceedings.)
- Young, H. O., Ishpeming.

**PROCEEDINGS**

**OF THE**

**TWENTY-EIGHTH ANNUAL MEETING**

**OF**

**THE MICHIGAN STATE BAR  
ASSOCIATION**

**WITH**

**REPORTS OF COMMITTEES  
LIST OF OFFICERS  
MEMBERS, ETC.**

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**1918**

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**KALAMAZOO, MICHIGAN**

**June 28 and 29, 1918**

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LANSING, MICHIGAN

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## PROCEEDINGS



PROCEEDINGS OF THE TWENTY-EIGHTH  
ANNUAL MEETING  
OF  
THE MICHIGAN STATE BAR ASSOCIATION  
KALAMAZOO, MICHIGAN

Friday and Saturday, June 28th and 29th, 1918.

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FRIDAY MORNING.

The meeting was called to order by the President, Burritt Hamilton.

**THE PRESIDENT:** As the first act I recognize Mr. Howard, who has some remarks to make.

**MR. HOWARD:** Gentlemen of the Association, in saying a word of welcome to you I will not undertake to make a long address. Perhaps you will recall some of the circumstances of our last meeting at Kalamazoo and the effect it had upon legislation. I remember at that time that there was a law on the books known as the Change of Venue Law, which was a matter of great interest to the profession. The Bar Association had had the matter brought to its attention and passed a resolution endorsing the repeal of that law and it was repealed at the next session of the legislature. And so we have gone along with our work in the Association. Then the Judicature Act was passed which simplified matters, but there

are certain changes needed in that Act, but I am not unmindful of the fact that there have been many changes beneficial to the profession.

It is a matter of regret that we have not more in attendance from the various local associations, but that has usually been the experience at the outset, but sooner or later they will appear.

In behalf of the Local Association I wish to welcome you, and if I were mayor I would give you the key of the city, but we will show you all the hospitality we can, and if there is anything any of you think of that you would like to do, do it and we will take care of you.

**THE PRESIDENT:** In behalf of the State Bar Association I extend the thanks of this body to the President of the Kalamazoo County Bar Association, Mr. Howard, and to the Bar Association itself, and to the lawyers of this county, for their welcome.

It occurs to me that we may express our appreciation at this moment quite fittingly by departing from the ordinary order of business and performing, as the first act of this convention, an act of justice.

I would suggest, that at this moment—that it may appear early in the record of this meeting—a resolution somewhat in this form be presented and adopted:

**“RESOLVED,** That the dues of all members of this Association who are now, or who shall be hereafter, engaged in the National Military or Naval service of the United States during the present war be credited until the first day of January next following the end of the war, and that such members be notified by the Secretary to this effect, with the compliments and congratulations of this Association.” The Chair will entertain a resolution along those lines.

**MR. FOSTER:** I move the adoption of the resolution.

**MR. GILBERT:** I second the motion.

**THE PRESIDENT:** It has been moved by Mr. Foster and seconded by Mr. Gilbert that the resolution you have just heard read be adopted. Are there any remarks? (Vote taken.) The resolution is unanimously adopted.

In conformity with a time honored custom which is also a matter of fundamental law in this organization, it becomes the duty of the President to present an address, and coupled with the custom is one which leads the President to present that address at the outset when there are but few members present, so it may be disposed of with the least possible interruption of business. I shall proceed to perform that duty.

(See Appendix for President's Address.)

**THE PRESIDENT:** Next in order will be the report of the Secretary, Mr. Silsbee.

**THE PRESIDENT:** You have heard the report, what is your pleasure?

**MR. CARNEY:** I move that the report be accepted and adopted.

Seconded and carried.

(See Appendix for Secretary's Report.)

**THE PRESIDENT:** The report of the Treasurer is next in order; I understand the Treasurer has not arrived, but Mr. Brown, the Treasurer, will be here during the course of the meeting.

It is our very good fortune to have present our esteemed Brother, Hon. George W. Bates, of Detroit, who can speak to us authoritatively, from his own observation. He has long been a member of the State Commission on uniform legislation, and is familiar with the efforts now being made, both through the National organization and the organization of this State, for the enactment of uniform laws upon those subjects which lend themselves to that kind of legislation. It is with very great

pleasure that I present Mr. Bates at this time, who will speak to us upon the subject, "Uniform State Laws."

(See Appendix for Mr. Bates' paper, "Uniform State Laws.")

THE PRESIDENT: The address of Mr. Bates is now open for discussion. If any observations or questions pertinent to the paper are desired to be made or asked, it would be in order—if not we will proceed.

Coming over on the car yesterday Judge Fellows said something concerning the manner in which the Blue Sky Law was procured—the present Blue Sky Law. While I have not spoken to the Judge about it, I think it would be illuminating if he would tell us of the methods pursued in the procurement of uniform legislation upon that subject.

JUDGE FELLOWS: Mr. Chairman: In the passage of the Blue Sky Law, different parties represented different angles, for the purpose of meeting all possible questions that might be raised as to the validity of the law. I think one of the attorneys was the attorney for a corporation, another for a partnership.

Originally, legislation was passed in Iowa; legislation in Arkansas was passed a little before that; in West Virginia I think, a little after that. Legislation, differing in character, was passed in five or six different states. The Attorneys General made up their minds that there should be a concert of action upon the part of the states, in as much as there was apparently a conflict of action in passing the laws. A committee was appointed consisting of the Attorneys General of Iowa, Arkansas and Michigan to prepare and submit a law which was hoped at that time would stand the test. They met at the city of Des Moines, Iowa, and the result was that a bill went forward to every attorney general in the Union. We had some two thousand copies of the bill printed which were forwarded to every attorney general in the Union, and were forwarded as well to the Commissioners on Banking. The result

was that each attorney general and the Banking commissioner of each of the states in the Union had before him a draft of the bill, which many of the states finally adopted.

In some states of the Union, the Banking Commissioners looked after it entirely; in some states they had commissioners, and in other states the attorneys general looked after the administration of the law entirely. The attorneys general found that, through working together for the purpose of uniformity, laws were gotten through that would practically stand the test.

Three cases were submitted to the Supreme Courts of Ohio, Michigan and Iowa, and the questions involved in those cases were thoroughly settled by the Courts of last resort. Uniformity worked out well.

**THE PRESIDENT:** I am sure the Association is under obligation to Judge Fellows for the instruction we have received upon this most important subject, illuminated as it is, by the light of his experience.

I believe the report of the Treasurer is now ready to be presented.

(See Appendix for report of Treasurer.)

**THE PRESIDENT:** Gentlemen, you have heard the report of the Treasurer, what is your pleasure? A motion to approve and place on file would be in order.

**MR. BROWN:** . It is usually referred to the Auditing Committee.

**THE PRESIDENT:** I will appoint Mr. Dibble of Kalamazoo, Mr. Faling of Kalamazoo and Mr. Dunham of Grand Rapids as that committee.

**MR. MILLS:** I have been informed that the wife of Hon. Edward Cahill of Lansing has passed away. I move that the Secretary of this body be instructed to send a telegram to

Judge Cahill expressing the sympathy of this Association in his present bereavement. (The motion was seconded and carried.)

MR. WESTON: In accordance with the usual custom I move the appointment of a nominating committee of three. (The motion was seconded and carried.)

THE PRESIDENT: I will announce the committee before adjournment.

The report of the committee on membership is in order.

(See Appendix for report of Committee.)

THE PRESIDENT: You have heard the report of the Membership Committee, what is your pleasure? If there is no objection it will be received and placed on file. It is so ordered. In connection with the last report I have a letter which is interesting.

France, May 30, 1918.

Hon. Burritt Hamilton,  
Battle Creek, Michigan.

Dear Friend Hamilton:

In going over some old papers today, I found your letter of March 26th, 1917, in which you furnished me with an application card for the Michigan State Bar Association, and a very kind invitation to join the Association. In the hurry of events last year, your letter remained unanswered, for which I offer my due apologies at this time, and at this safe distance.

I am sending the card to you herewith, and a P. O. order for \$2.00, and wish your good offices in presenting this belated application to the proper committee, assuring you that I appreciate your invitation and the value of membership in the M. S. B. A. at their true value.

Practicing law on a foreign soil, and under present conditions, has its difficulties, but I am greatly enjoying my work

over here, and the opportunity to be of some service in this great war. Though my office consists of a large, bare room, with big packing boxes for shelving, some crude tables, a field desk, etc., yet I feel that we are practicing in a creditable manner, and endeavoring to uphold the best traditions of the profession.

With kindest regards to the Battle Creek bar, I am,

Yours very sincerely,

(Signed) SAM'L D. PEPPER,

(Maj. J. A. 32nd Div. U. S. Army).

Address:

Maj. S. D. Pepper,

Hdqs. 32nd Div.,

America E. F., via

New York.

THE PRESIDENT: The report of the committee on Local Bar Association, Mr. Henry F. Jacobs, Chairman, is in order.

(See Appendix for report of the Committee on Local Bar Associations.)

THE PRESIDENT: Gentlemen, if there is no objection, the report of the Committee on Local Bar Associations will be received and placed on file. The Chair hears no objection; it is so ordered.

The report of the Committee on Grievances, Mr. Carney, Chairman, is in order.

(See Appendix for report of the Grievance Committee.)

MR. CARNEY: As a sequel to the proceeding referred to in this report, I think it is proper for me to advise this Association of the history of one of the respondents in that trial, Mr. Rhoades. He made application for Government service and I am informed was later received as a volunteer and has been promoted from time to time and is now a First Lieutenant in the service of his country in France.

**THE PRESIDENT:** If there be no objection the report of the Grievance Committee will be received and placed on file; hearing no objection it is so ordered.

The Chairman of the Judge Fletcher Memorial Committee I fear may not be here, and another member of the Committee, Judge Cahill, is detained by the death of a member of his family. Mr. Ryall is requested to present the report.

**MR. RYALL:** I have in my hand the report of the Committee, which I will read.

(See Appendix for report of Committee.)

**THE PRESIDENT:** Gentlemen, you have heard read the report of the Committee's action; if there is no objection it will be received and placed on file. Hearing no objection, it is so ordered.

**THE PRESIDENT:** The report of the Committee on Supreme Court Reports—Mr. Potter is present.

**MR. POTTER:** I was made chairman of that Committee and in as much as the President requests me to make a report, I will do so.

At the last meeting of the Association the matter was brought up that the Supreme Court Reports of this State were more than a year behind, and that something ought to be done to facilitate their early publication, and a committee was appointed at the last meeting at Grand Rapids consisting of Judge Perkins, Mr. Wetmore of Cadillac and myself, and the Committee requested me to take the matter up with the Supreme Court and an arrangement was made whereby the opinions of the Court are now published in pamphlet form, commencing at Volume 200. It is the intention to bring the volumes up from 195 to 199, inclusive, so as to have the publication of the opinions within the memory of the men who try the cases. A great many of the gentlemen who had the honor of pre-

senting cases to the Supreme Court under the old system of reporting, died before the opinions were printed. That is one of the objections which the Committee had in view.

By reason of the character of the Detroit Legal News, or because some one induced them to suspend publication, that publication went out of business. It was up to every one to join the so-called book trust in order to get the reports at all, except as the opinions were furnished to the attorneys trying the cases before the Court.

I think I can report that the volumes will be published as speedily as possible, and that the members of the bar will have an opportunity at least to get the opinions of the Court within a reasonable time after they are handed down. There is nothing further I can report on the subject.

**THE PRESIDENT:** If there is no objection the report of the Committee on Supreme Court Reports will be received and placed in the record. It is so ordered.

**THE PRESIDENT:** The Chair will appoint as Nominating Committee, Frank S. Weston of Kalamazoo, Judge Grant Fellows of Lansing and Victor D. Sprague of Cheboygan. I ask both the Auditing Committee and the Committee on Nominations, to be ready with their reports tomorrow morning.

It has been intimated that we might expect to hear here to-day a message from Lenawee County concerning the alleged fact that the grave of the author of books which have been a guide to all of us, Judge Tiffany, is unmarked, and that some action should be taken for expression of the respect this Association and its members have for their common benefactor. If there is anyone here from Lenawee County who has knowledge of the facts and desires to be heard it will be in order.

**MR. ALEXANDER:** Speaking for myself, Judge Tiffany's grave is not unmarked. I find there is a monument there of soft sandstone, as poor a piece as I ever saw, about three feet in height. The action of the elements has caused it to become

much defaced. I am also informed that the monument has several times fallen over and had to be repaired. My observation is that the monument will not last many more years. I think it would be entirely proper and fitting to take some action looking to the erection of a permanent monument.

**THE PRESIDENT:** Do you desire to offer a resolution on that subject, Mr. Alexander?

**MR. ALEXANDER:** It might be well to appoint a committee to take some action along that line. Which motion was seconded.

**THE PRESIDENT:** It is moved and seconded that the Chair appoint a committee to take action looking to the erection of a suitable monument at the grave of the late Judge Tiffany. Are there any remarks? The motion prevails.

Perhaps it should be stated in explanation, that in taking up a matter of this kind during the war, with the many burdens imposed on the bar, it will take some time to work out the details as we desire, consequently we are taking this occasion to bring the matter to the attention of the Association so the machinery may be put in motion, and the money be raised, to carry out the project. I think we should, out of our respect for the memory of our common benefactor, meet this situation as becomes this organization.

Is there any other matter of business to be taken up at this time; if not a motion to adjourn until two o'clock will be in order.

**MR. BROWN:** Mr. President.

**THE PRESIDENT:** Mr. Brown.

**MR. BROWN:** Does it require a motion for the appointment of a committee in reference to the Judge Fletcher Memorial? The recommendation was that a committee be appointed. If that requires a motion I desire to make it.

THE PRESIDENT: I think it does.

MR. BROWN: Then I make a motion that a committee be appointed by the President to cooperate with the Committee of the State Historical Society for the procurement of a suitable marker for the grave of Judge Fletcher.

JUDGE CARPENTER: I second the motion.

THE PRESIDENT: It has been moved by Mr. Brown and seconded by Judge Carpenter that a committee be appointed by the President to cooperate with the State Historical Society in the procurement of a suitable marker for the grave of Judge Fletcher. Motion carried.

I am requested to announce that the Kalamazoo County Bar Association desires every visiting member here to register at the desk so they may have a list of the names of all in attendance. Those who have not registered will, I hope, attend to the matter upon adjournment.

MR. KETCHAM: May I call attention to the fact that the American Bar Association will meet at Cleveland, Ohio, August 28th. This is almost at our door and I trust that all the members of this Association who can will attend.

MR. BROWN: I move that we adjourn until two o'clock this afternoon. The motion was duly seconded and carried.

## FRIDAY AFTERNOON.

**THE PRESIDENT:** The Convention will now come to order.

The first number on the program is an address by Governor Sleeper. In speaking to the Governor concerning his appearance, I stated to him that I thought the attorneys of this State, by reason of their activities during the past year, felt that they are as a body and individually a part of this administration, and that I believe they would appreciate it if the Governor of this State would appear here and tell them his view also. He said he thought I was right and that he would come. He will not be on the program this afternoon because he has been detained in Lansing, but I have a telephone message from him that he will be here tonight and will speak at the banquet.

I have the very great honor of presenting to the members of the State Bar Association a gentleman whose thorough research on any subject to which he addresses his mind, invariably commands respect, Prof. H. L. Wilgus of the Michigan University, who will speak on the subject, "The Tragedy of the Thirteen Days in 1914."

**PROF. WILGUS:** Mr. President, and Gentlemen: The events of which I shall speak are revealed in the Diplomatic Correspondence from July 23rd to August 4th, 1914, inclusive, immediately preceding and ending in the commencement of the war.

(See Appendix for address of Prof. Wilgus.)

**THE PRESIDENT:** I feel that I but voice the sentiments of every lawyer present when I say we thank Prof. Wilgus for reviewing before our mental vision, and enabling us to place in the permanent records of our organization for reference for all time to come, the careful, thorough, complete, able and

comprehensive transcript of the great events leading up to the most important event of the world's history. If you feel as I do you will be grateful for the opportunity at this time to congratulate Prof. Wilgus, so we will take a recess for ten minutes. (Recess taken.) (After recess.)

THE PRESIDENT: Prof. E. R. Sunderland will present an address on, "A New Function for Courts—Declaring the Rights of Parties." Prof. Sunderland.

(See Appendix for Prof. Sunderland's Address.)

THE PRESIDENT: Gentlemen, the paper just read is worthy of discussion, whether it would best serve the order of the proceedings to discuss it now, or defer it to a later time. I know that many of you entertain the sentiments I feel, and that all may have an opportunity to speak to Professor Sunderland concerning his masterly paper, I take the occasion to declare another recess of ten minutes.

(After recess).

MR. MAYNARD: Mr. President.

THE PRESIDENT: Mr. Maynard.

MR. MAYNARD: I move that the paper just read by Prof. Sunderland upon the subject, "A New Function for Courts—Declaring the Rights of Parties," be referred to the Legislative Committee with instructions to report at the next meeting of this Association whether or not in their judgment the subject matter covered by the paper is desirable as a basis of legislation, that we may enjoy the benefits now enjoyed by England, under a similar system, with power vested in them, if they deem it advisable, in view of the early session of the legislature, to call a meeting of the Board of Directors before the next annual meeting, for the purpose of taking action towards the crystalization of the principles of this paper to be presented at the next meeting of the legislature of this State for adoption.

**MR. HOWARD:** I move an amendment, that the Legislative Committee be directed to prepare a Bill to be presented to the next session of the legislature, it being the sense of this meeting that we want action at once.

**MR. MAYNARD:** I accept the amendment.

**THE PRESIDENT:** The motion is that the Legislative Committee be instructed to prepare and submit to the next legislature of this State a bill embodying the principles expressed in Prof. Sunderland's paper. Are you ready for the question? The motion is carried.

**MR. SPRAGUE:** Mr. President.

**THE PRESIDENT:** Mr. Sprague.

**MR. SPRAGUE:** I offer the following resolution: Resolved, That our Secretary be requested and directed to cause the early publication in some daily paper or papers of Prof. Wilgus' paper, this Association deeming its early and wide circulation of vital importance at this time.

**MR. DUNHAM:** I second the motion.

**THE PRESIDENT:** (After stating the resolution.) As many as favor the adoption of the resolution please say aye. Opposed, no. The resolution is adopted.

**A MEMBER:** I move that the Secretary be instructed, at the time he prepares the proceedings for general circulation, to have printed such numbers of it as may seem advisable to the Board, for circulation.

**THE PRESIDENT:** The Secretary informs me that he intends to do that, so that will not require a motion.

There has been a subject called to my attention frequently,

and I suppose it has been called to the attention of many of you, and that is the legislation providing that in cases involving less than five hundred dollars a writ of error is not a matter of right. The Legislative Committee seems to have been grappling with that subject. I mention this for the purpose of challenging your attention to what is about to follow. I call for the report of the Legislative Committee of which Mr. W. W. Potter is Chairman.

**MR. POTTER:** I will say that the Committee did not entirely agree upon this report. I am not sure whether it is the opinion of the majority or minority, but when presented the matter will be up to you for discussion, if you care to discuss it.

(See Appendix for report of Committee on Legislation and Law Reform.)

**MR. POTTER:** Some of the Committee, I will say, dissented from the report in relation to punishing judges for sitting in cases in which they have an interest.

A Bill providing for the consolidation of corporation laws was introduced in both the House and Senate; was passed by the Senate and went to the House and was reported favorably by the Committee. About that time war was declared and it went to the Ways and Means Committee and I suppose they were busy with other matters and it was not considered further. Perhaps they did not regard it of much importance. I think the declaration of war perhaps had something to do with it not being considered. The Bill provided that a commission be appointed and it was the belief upon the part of many members of the House that the work ought to be done by the Attorney General's Department, that may have had some weight. Mr. Foster was the author of the Bill introduced; I do not know what the difficulty was. He can tell you more about that than I can.

**MR. FOSTER:** That Bill passed the Senate and was recommended by the House Judiciary Committee but was opposed

on the floor of the House by one member of that Committee. It was one of the Bills that did not seem to get action until the close of the session and simply lost out. An effort was made to amend it, but this one member of the House objected to that and we could not get action at that time.

While I am one of the members of the Committee that dissented to the report as read by Mr. Potter, I am heartily in favor of the main point raised by him, but I do not feel it is proper to intimate that the Supreme Court of Michigan or the Circuit Judges are crooked unless there is something to back it. It seems to me that the report at this time should not be made and signed by me until I am satisfied of its correctness.

In relation to the bill where the amount is less than \$500.00, that has been in effect since August 5, 1917, and there have been fifty-one applications to the Supreme Court for relief. Of those cases two are still pending, twenty-seven were granted and twenty-two were denied. How many were denied by the Circuit Judges I could not ascertain. As far as the Supreme Court is concerned they had denied twenty-two up to last Friday. If you will recollect the wording of the statute you will remember that a writ is only allowable in cases where the judges permit it. A Ten Thousand Dollar damage suit may result in a verdict of no cause of action, but they do not have the right to turn them out of court and the Supreme records show in no such case has a writ been denied. As a matter of fact the records show in any case where more than five hundred dollars was actually claimed a writ has been granted.

A MEMBER: In order that the matter may get regularly before the Association, I move that the report be received and each recommendation be taken up and discussed and disposed of seriatim, at the present meeting. Motion seconded.

THE PRESIDENT: It has been moved and seconded that the Report of the Legislative Committee be received and that the matters therein embraced be taken up and discussed seriatim at the present session. Carried.

**MR. CARNEY:** Mr. President.

**THE PRESIDENT:** Mr. Carney.

**MR. CARNEY:** In view of the present motion it is in order at this time to take up the question in reference to writs of error that has been touched upon by the Committee on Legislation.

At a meeting of the Kalamazoo Bar Association this statute was thoroughly discussed and a committee was authorized and directed by a unanimous vote to ask the Association to adopt a resolution, and I submit the resolution at this time. I think the Act should be repealed by the Legislature of the State of Michigan at as early a date as possible. I will read the resolution:

"The legislature of the State of Michigan, at the 1917 session passed an Act known as Act No. 172, of the Public Acts of 1917, amending Section one of Chapter 50 of Act 314 of the Public Acts of 1915. This amendment provides as follows:

"Writs of error, upon any final judgment, where the judgment exceeds in amount Five Hundred Dollars, may issue, of course, out of the Supreme Court, in vacation as well as in term, and shall be returnable to the same Court; and in all other cases such writ may issue in the discretion of the Supreme Court upon proper application.

We believe that this amendment is an unwise discrimination against the citizens of this State, who desire to seek the assistance of our courts for redress of their grievances.

"We believe that it is within the spirit of our judicial system that the doors of the highest court in the State should always be kept open to the rich and the poor alike and that this amendment is an obstruction to the impartial administration of the laws of the State of Michigan and ought to be repealed.

"It is, therefore, hereby resolved that it is the judgment of the Michigan State Bar Association that said Act No. 172 of the Public Acts of 1917 should be repealed by the legislature of the State of Michigan at as early a date as possible, and that the law of the State of Michigan should provide that writs of error upon any final judgment or determination may issue, of course, out of the Supreme Court in vacation as well as in term.

"And it is further resolved that the Committee on Legislation and Law Reform be and they are hereby directed to use their best influences at the next session of the legislature of the State of Michigan to secure the repeal of this objectionable amendment known as Act No. 172 of the Public Acts of 1917.

"And it is further resolved that the Secretary of this Association furnish a copy of this resolution to the Governor of the State of Michigan and to each member of the next legislature of the State, and that the officers of this Association cooperate with the committee on legislation and Law Reform and use their influence to secure the repeal of this statute."

I move the adoption of the resolution, and that that portion of the report of the Legislative Committee on Law Reform be transmitted by the Secretary to the Governor of this State and each member of the legislature.

**MR. MECHEM:** I move that the whole matter be laid over until tomorrow morning at ten o'clock. (Motion seconded.)

**THE PRESIDENT:** It is moved and seconded that the report of the Committee on Legislation, and the resolution just introduced be laid upon the table until tomorrow morning at ten o'clock. Those in favor of the motion say aye. Opposed, no. The Chair is in doubt. As many as are in favor of the motion please rise—

**MR. MECHEM:** It is half past five o'clock and here is a great question to be submitted to this Association; I submit it should be made the special order for tomorrow morning.

**THE PRESIDENT:** The Chair was about to take a rising vote upon the question of permitting the report of the Legislative Committee, and the resolution just offered to lie upon the table until tomorrow morning at ten o'clock. I call for a rising vote, as many as favor the motion to lie upon the table, please rise; as many as are opposed, rise: 19 ayes and 24 nays, the motion is lost. The question is upon the adoption of the resolution introduced by Mr. Carney.

**A MEMBER:** I think the right of appeal should be allowed in all cases and that the Legislative Committee should act promptly to meet that situation, but I do not think we ought to go before the legislature or the Governor with such a resolution. It criticises the Courts and coming from an Association of the dignity of the State Bar Association more harm is done than can be repaired in a number of years or by all the resolutions you can pass. We ought to keep this matter dignified. The Court ought not to have any discretionary power where the amount involved does not exceed Five Hundred Dollars, I think the power of discretion should be taken away, but let us do it in a dignified way.

**MR. MASON:** It is moved as a substitute for the motion upon the adoption of the resolution offered by Mr. Carney, that the Legislative Committee be instructed to undertake to get such legislation as will strike from the present Act relating to this matter the discretionary power of the Supreme Court to grant appeals in cases involving Five Hundred Dollars or less.

**MR. MECHAM:** I intended to ask whether a substitute would be in order. I move that so much of the first branch of the report of this committee relating to this subject be not adopted by this Association; I am opposed to the language of that report.

**MR. CARNEY:** I will withdraw that portion of the motion involved and embodied in the report of the committee and let the resolution presented stand alone.

**THE PRESIDENT:** The question is upon the adoption of the resolution as to the matter of repeal, but no other portion of it is now before the Association. Are you ready for the question upon the resolution introduced by Mr. Carney.

**A MEMBER:** I would ask to have the resolution read as it now stands.

(The resolution was read by Mr. Carney).

**MR. CARNEY:** That portion of the report of the Committee on Legislation and Law Reform be transmitted to the Governor and members of the legislature—that portion of the original motion is withdrawn.

**THE PRESIDENT:** Are there any further remarks? Are you ready for the question? So many as favor the resolution introduced by Mr. Carney say aye. (Vote taken.) The motion prevails unanimously. What is your further pleasure?

**A MEMBER:** I move we adopt the second subject.

**THE PRESIDENT:** That is upon the question of the consolidation and revision of the corporation laws.

**A MEMBER:** I move that the committee be directed to continue its efforts toward the passage of a law that will meet that condition. (Motion seconded.)

**THE PRESIDENT:** It is moved and seconded that the Legislative Committee continue its efforts for appropriate legislation relating to the revision and consolidation of the corporation laws of the State. So many as favor the motion as stated by the chair, please rise. Those opposed, please rise. The motion prevails. That disposes of the second branch of the report. Do you care to take action on the third branch, relating to offenses committed in the presence of officers?

MR. POTTER: I move that part of the report be adopted. (seconded.)

MR. FALING: I would not want that to pass without one word of objection. It seems to me if there is any danger to our individual liberty it is in the exercise of arbitrary power by an executive officer and administrative Boards, as they have sometimes been denominated. For one, I am not willing to leave the question of whether or not I shall be deprived of my liberty for one moment on the order of a police officer. No doubt but what the ordinary police officer, acting under such broad authority, would deem himself authorized to make arrests whenever he is displeased with the conduct of a party, and it is virtually conferring judicial authority upon an ordinary police officer. I think it is a dangerous invasion of individual liberty; for that reason I am opposed to it.

MR. SLOMAN: I understand an officer may arrest for a felony or misdemeanor committed in his presence. I believe it is too dangerous to give any greater powers to officers to arrest without warrants for acts claimed to have been committed in their presence. Under the traffic regulations some officers are in the habit of laying in wait for automobiles, and claiming they are exceeding the speed limit, arrest them and take them before a justice. It strikes me that it is a mighty dangerous proposition and I move that the matter be laid over until tomorrow morning for consideration, and that we do not act upon it tonight.

MR. FOSTER: The gentleman evidently does not understand the proposition. The main purpose of this is to take care of offenses committed within the sight of an officer.

MR. SLOMAN: I will withdraw the motion.

MR. DUNHAM: It seems when some officers do not know

the difference between a barn and a bale of hay, that they ought not to be given that authority.

**MR. SLOMAN:** We have a business session tomorrow morning and we have an election of officers. I move as an amendment that we adjourn until tomorrow morning at nine o'clock.

**THE PRESIDENT:** It is moved and seconded that we adjourn until tomorrow morning at nine o'clock. As many as favor the motion, please say aye. Opposed, no. The motion is carried. We stand adjourned until tomorrow morning at nine o'clock sharp.

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#### SATURDAY MORNING.

**THE PRESIDENT:** The question before the House is the adoption of that branch of the report of the Legislative Committee relating to arrests without warrants. What is your pleasure on that subject?

**A MEMBER:** Question.

**THE PRESIDENT:** So many as favor the motion to adopt that branch of the report relating to arrests without warrant, please rise. Will as many as vote no on the third branch of the report providing for the arrest in certain cases without warrants, please rise. The motion is lost.

We will now pass, under the order of business, to the fourth branch of the report of the Legislative Committee.

**MR. SLOMAN:** May I inquire what the matter under consideration is?

**THE PRESIDENT:** We are considering the report of the Legislative Committee; the next clause of the report is that relating

to the punishment of Circuit Judges for sitting in cases in which they have an interest and, I believe, making that act a felony. What is your pleasure in relation to that branch of the report. Would you care to have it re-read. Mr. Foster has a copy of the report.

MR. SLOMAN: I would like to have it read.

MR. FOSTER: It is not a verbatim copy as read by Mr. Potter, some few changes were made; this is a little stronger even than what he read yesterday.

THE PRESIDENT: You may proceed.

(Mr. Foster here read the portion of the report indicated.)

MR. SLOMAN: I move that the Committee be authorized to prepare a law along those lines to be presented to the next legislature. (Seconded.)

THE PRESIDENT: It has been seconded. Are there any remarks? So many as favor the motion, please say aye. Opposed, no. The motion prevails.

What is the next paragraph?

MR. FOSTER: The next paragraph relates to the creation of a commission, or giving the present Railroad Commission, power to fix rates of public utilities not now covered by the commission. While on my feet I will say that I have no objection to the proposal, but I am opposed to what appears in the second and third paragraphs of the report on that subject. I see no occasion for this Association to go on record as advocating a raise any more than a reduction.

A MEMBER: I move the adoption of the recommendations under consideration.

MR. SCHABERG: Mr. President.

**THE PRESIDENT:** Mr. Schaberg.

**MR. SCHABERG:** Mr. President, and Gentlemen of the Association: I feel as though it would be necessary for me to object to the adoption of that portion of the report for two reasons: I do not like to take too much of your time, but for the last ten years it has been my duty to act as City Attorney of this city and during that time we have had considerable experience along this line.

I desire to call your attention to the fact that a week ago yesterday a meeting of Municipalities was held at Flint, and at that time City Attorneys from different parts of the State were present. At that meeting an unanimous recommendation was made with the reasons for adopting the resolution, as being opposed to any legislation granting this power to either the present commission or the creation of a new commission, to regulate rates of public utilities operating within the limits of the different cities.

The resolution went farther than that, and was adopted unanimously, in which the Legislative Committee was instructed to prepare an act and present to the legislature giving to the municipalities of the State the right to regulate rates of utilities operating within their own limits upon the expiration or forfeiture of their franchises.

A peculiar thing about the demand for the regulation of rates by a commission is that it comes from the Public Utilities entirely. The argument made against it was that attorneys for the gas companies and other organizations urged that they wanted a commission to regulate rates.

Now, gentlemen, for three or four years prior to the last two years of my term, I was very much in favor of this proposition. I thought it would be a good thing, but a history of the regulation of rates of public utilities in Wisconsin and New York has shown that it is impractical and has created a great deal of dissatisfaction and will probably be repealed.

I will say to you further, that a bill along this line was fathered by Mr. Wiley in the legislature. He came to me in

my office within the last four weeks and stated that he had investigated the matter and authorized me to say that hereafter in the legislature he would absolutely oppose the passage of any such a bill, and was in favor of giving municipalities the right to regulate rates within their limits. He told me that sentiment was also true among others who were associated with him in the adoption of that bill in the last legislature.

At the last session of the legislature two bills were introduced, one along the line of giving municipalities the right to regulate public utilities within their own limits. In order to defeat that bill, and it was defeated; an opposing bill was introduced, and as a result of the conflict no bills were passed along that line.

The Constitution of the State of Michigan reserves to municipalities reasonable control over their streets, furthermore it has always been the policy of this State, sort of a home rule, and it is one thing the people have demanded. There is no reason why the city of Kalamazoo should not say to any public utility, "If you want to use our streets all right, but you must do it under such terms and conditions as we prescribe, if you do not want to use them under these conditions, you don't have to." I do not think that any Commission should say to the city of Kalamazoo, "You cannot regulate rates by contract, or any other way, of any utility operating within your own limits."

To show you how far they have gone in four or five different cities of the State, there have been attempts made by utilities to surrender their franchises, not more than fifteen or sixteen years old, running for thirty years, in order that they might obtain a rate fixed by some State Commission.

I will call your attention to this fact. I do not believe you can refer to a case where any State Railroad Commission have lowered the rate of a public utility; in every case it has been a raise.

As a rule, State Utilities Commissions will not allow the municipality to go back into the history of the company and ascertain whether it is a going concern, whether its capital

stock has been paid for or not. They will take the concern as it stands at the time the rate is made. In the case of the Gas Company in the city of Kalamazoo, the capital stock today is \$250,000.00. That capital stock does not represent one penny of investment, its bonds were sold for twenty-five cents on a dollar. If you went before a Commission today it would take that \$250,000.00 as the basis of value upon which to figure the rate. The municipality would not be allowed to show how that stock value is built up.

I do not care to take any more of your time, but I will say that it would be humiliating to have to go before the legislature and work against a resolution adopted by the State Bar Association, which we would have to do. Furthermore, why should the State Bar Association pass a resolution along this line anyway, which does not affect any man as a lawyer, any more than they should pass a resolution and say we should have a commission form of government. We might just as well adopt a resolution recommending to the legislature home rule.

To that portion of the report I object and move at this time that that part of the report be not adopted by this Association.

THE PRESIDENT: I think we should have that part of the report to which the motion relates read. I understand there are two or three paragraphs.

MR. SLOMAN: I rise to a point of order. I have heard motions made once or twice on the negative of the proposition.

THE PRESIDENT: There is a motion before the house to adopt.

MR. SLOMAN: That we do not approve.

THE PRESIDENT: That came in the nature of an amendment.

MR. SLOMAN: I understand the point of order is not well taken.

**THE PRESIDENT:** I will overrule the point of order. Before we can intelligently determine what is to be considered we should have that part of the report presented.

**MR. FOSTER:** I know of no one in the room who has a copy. My motion was to the two paragraphs, this motion is to the whole thing.

**MR. SLOMAN:** This motion is not to approve of the action.

**THE PRESIDENT:** If this motion goes to the whole report the motion is out of order. You can accomplish the same thing by rejecting the motion to adopt.

**MR. SLOMAN:** I move that we do not concur in the recommendation of the Committee in that report in relation to this subject. Seconded.

**THE PRESIDENT:** It is moved and seconded that that part of the Committee's report under consideration be not adopted. Are there any more remarks on the subject?

**MR. BRIDGMAN:** I move that the further consideration of the matter be laid on the table. (Motion seconded.)

**THE PRESIDENT:** It is moved and seconded that further consideration of the matter be laid on the table; as many as are in favor say aye. Opposed, no. The motion is lost.

**MR. PERRY:** We were to take up each passage of the report and adopt it or not adopt it. It makes no difference, unless it is in the phraseology, whether you make a motion to adopt or not to adopt, it is the same thing precisely.

**THE PRESIDENT:** Is there any further discussion on the motion before the house.

**MR. RYALL:** I would have said nothing upon the subject

had it not been that Mr. Schaberg made some statements about which I think he must have been misinformed. I do not think there is an attorney here who is not willing to concede the general proposition that anything people disagree about ought to be decided by somebody who will hear both sides, and who is not interested in the outcome. If you want to know something about these Commissions, read something upon the subject. I think I am safe in saying that seventy-five per cent of the United States live in jurisdictions where Commissions have absolute control over this subject. If they were arbitrary the law would be repealed. As far as I know there is not a bill in any state to repeal the Railroad Commissions. I asked whether in the state of New York the Commissioners were always favorable to corporations. If you can say because people differ in their judgments that they are unfair, that is true. In the state of New York there is a provision in the law that no man shall be a member of the Commission who is directly or indirectly connected with any utility. In the state of New York they removed Mr. McCall, who was at one time a judge in that state, from the Commission because his wife happened to own some stock in a utility, which she had inherited, and which had been before him. That goes farther than my friend goes. You will find that there have been more decreasing rates than increasing them. Every one of those laws, as far as I know, contain a provision whereby you can appeal, not only on the facts but the law, to the courts. As far as I have had it brought to my attention, at least in the Central West, there has not been a single appeal from the Commissioners to the courts on questions of fact. There have been on questions of law. The Detroit Telephone case in this State is the only appeal of that sort that I know of and as far as I know that never reached the court of last resort.

Now gentlemen, if those commissions are so unjust-why hasn't somebody taken those questions of fact to the courts.

The long and short of the argument is that the Kalamazoo Gas Company has got into a row with the city of Kalamazoo, the same as though Mr. Howard, for whom I have the greatest

respect and friendship and cordial feeling, would dispute as to whether that is his hat or my hat. The sensible way is to have a tribunal that is impartial, I don't care whether a Railroad Commission or what, but get somebody where the parties cannot sit in their own case, where you can have these questions decided fairly.

That is all this convention is asked to recommend.

MR. DIBBLE: It seems to me in saying what I have to say, I should state that I have no interest either way. I am not connected as City Attorney, neither do I represent the corporation.

Now what concern is it to the city of Grand Rapids, or the city of Detroit, what concern is it to the city of Saginaw what we do with the Gas Company in Kalamazoo. They have the right of appeal to the courts, they are protected. It is a matter between the city on the one side and a public service corporation on the other. Is it any different than a matter between two private persons. The city of Kalamazoo had something to sell to a public service concern, namely, the use of the streets; it can enter into franchise voluntarily but is not obliged to; on the other hand the city is not forced to do anything; it is a matter between the two. It strikes me it should be left to the decision of those two parties and them alone.

MR. HOWARD: Mr. President and Gentlemen: I have listened with a great deal of interest especially to what has been said by Mr. Ryall. I entertain the same profound respect for Mr. Ryall that he does for me, and our acquaintance has extended over a number of years. It is a question whether the Bar Association should express itself one way or the other, whether in favor of a commission form of government or a home rule form of government. It was only a little while ago that it was decided to have a commission form of government in our city. We had a commission for the water works, another for the lighting plant, another for the parks, etc., all governed by commissions. Then we changed and the pendulum swung the other way.

Now it seems to me that this is purely a local question and should be left to the locality. I want to give you a little illustration: One day a very polite gentleman stepped into my office and said he had been sent around by the electric light company for the purpose of checking up the fixtures in the office with a view of lowering the rates. I said that was very commendable but that I was satisfied with the rates and he need not bother. He says, "We must do it." I says, Why? He says, "according to law." I says, "what law?" He says, "the rate is regulated by the Railroad Commission." I says, "Have they been reduced?" He says, "yes, they have been reduced depending somewhat upon the load." Finally he checked up the fixtures and said, "I regret to say with the present fixtures you have your rate will go a little higher." I says, "How do you figure that out?" He explained that there were a great many around the office that they had to count. I says, "Do you count all the fixtures in the offices?" and he said "yes, all over town and that the theory was that we might in some way use the full capacity and they must be ready for that." I says, "We don't run all night." He says, "We have to be prepared." Then he went up to the house and counted those; the bill was increased considerably, when he got through. I was willing to pay the price. The Commission in Lansing knows nothing about the conditions in Kalamazoo and there is no reason why they should come here and interfere with our constitutional rights of home rule.

We have a home rule charter here voted by the people and we are going to try it out. I do not believe this association wants to come in here and interfere with the matter. I think it would be entirely improper to go into the matter which is in litigation now. It might as well be passed over until the next session of this organization.

Mr. Ryall can tell you better than I can, that most of the gas companies that have been capitalized recently, placed a bond issue on the franchise or property they hope to have and they sell the bonds approved by the Commission at Lansing and get the money then go ahead and build their plant, and

they have given with those bonds their stock as a part consideration for which no one has paid anything. When the commission comes to consider the matter they have regard first to the bonded indebtedness, then the capital stock, the same as though paid in full at one hundred cents on the dollar.

Mr. Dice was president of several of those gas companies at a salary of \$50,000 or \$60,000 per annum for doing nothing but being president of several small companies. That is where some of the funds of those companies was going. I am not saying anything as to a special gas company. When the time comes, when the price of coal goes up or they want a raise of salaries they appeal to the public and ask the public to endorse a raise, and say that everything is going up and the price of gas should go higher. In Kalamazoo we wanted the right to pass an ordinance regulating rates. Before doing that we went to the expense of investigating, but the supreme Court held that we did not have the right to do that. Now in anticipation and while that question was up for discussion the company voluntarily reduced the rate from a dollar to eighty-five cents. The proposition of municipal ownership was before the voters and they thought it was right to have 85-cent gas. After we litigated the matter through the Supreme Court and the Supreme Court found we had not the right to fix the rate, the gas company moved the rate up again from 85 cents to a dollar.

I hope the matter will be defeated; it is not a matter properly before our Association.

THE PRESIDENT: Are there any further remarks?

MR. PERRY: The question is whether we are not going outside of the functions of our Association when we are attempting to discuss and pass upon a proposition relating to this matter. It is a proposition that ought not to be passed upon by this body.

MR. OLNEY: It strikes me that this is a question that ought

to come before this body. It strikes me that it is a proper question to come before this organization. The question of utilities has been threshed out in every state of the Union. In every state in the East and the West you will find them not only controlling the railroads but the interurban lines; you will find them controlling every utility. There must be something wrong with the State of Michigan, if we believe in uniform legislation. If those commissions are all wrong in the other states, then Michigan ought not to adopt it. But I claim the city of Kalamazoo with the shifting and changing of the council cannot get the results that the commission could give and as they have done in Wisconsin. I believe we would get every right we are entitled to in the city of Lansing. Whether we get lower rates or not we are bound to get action, we are going to get a prompt response. They handle these cases rapidly. They say the gas company of this city is controlled by outsiders. What would you say in reference to the telephone company. I believe in it and I believe we would get results.

MR. STEWART: I agree with Mr. Olney. It seems to me the State Bar Association has an interest in the Kalamazoo Gas Company fight. If it has been adopted in other states and it is a good thing it would be a good thing for Kalamazoo. The only objection made is by attorneys representing the city in the fight against the Kalamazoo Gas Company. I have great respect for them, but I do not think they should come in here and talk to you about the Kalamazoo Gas Company raising the price of gas when we know the reason for doing it is because they could not get coal. This report has been adopted by the Committee appointed to formulate it. It seems to me the bar of this State know about the local city government and know the same as we do that the local city government does not amount to a d—n. Generally the city is represented by a certain clique. A commission appointed by the Governor would be in a better position to pass upon the rights of the city than some local city attorney or some local counsel who may be prejudiced against the local company.

MR. BROWN: In the Constitutional Convention this clause with reference to public utilities met with a great deal of discussion from every possible source. I think the point in the convention upon the first clause was with reference to the locality acting arbitrarily with reference to its use of the streets and public privileges in that locality with reference to the public utilities doing business in different parts of the State. In the operation of its affairs in the execution of contracts, we thought that should be left to the public officers elected by the public. Ultimately this question was disposed of by adding the words "Reasonable regulation" of their streets.

It strikes me this discussion is of importance to this convention for the reason that this resolution seeks to deprive the municipality of the right of contract. It seems to me that is a vital question. The municipality has reasonable control of its streets and alleys and if a public utility desires to use those streets they enter into negotiations with the municipality for that purpose and have a contract executed, and this contract goes into the form of an ordinance. Immediately the utility finds that it does not desire to perform the contract, they have possession of the streets with its wires and conduits and they at once surrender their franchise and say we are going to quit business or have a new contract made.

It strikes me that is the question involved here. They are asking the State Bar Association to approve of a resolution and say that an outside party shall go ahead and fix the rates that have been established and fixed by contract. It involves the principle that the city of Kalamazoo, and that will mean all the other municipalities in the State, be compelled to accept service at a rate to be determined by somebody else besides themselves.

I was a member of the Constitutional Convention, and can speak advisedly, and I believe it was the spirit, and I believe I am warranted in saying that it was the spirit of that Convention that in the conduct of local business it should be under the control of the municipalities by the power of contract

entered into between the parties, the same as a contract entered into between you and me.

I do not believe that the State Bar Association should approve the resolution that will bar the right of contract. It seems to me it is a matter that should be left open to contract.

**THE PRESIDENT:** Are there any further remarks?

**MR. SLOMAN:** The wisdom of this discussion is apparent. When the gentleman first spoke I was strongly in favor of it. When I heard the other gentlemen I was in the mental attitude of the justice of the peace who after hearing counsel talk finally decided in favor of the plaintiff because that was the practice.

The people of my own city have voted for Home Rule and have expressed themselves as to the right of self-government, and it seems to me they should be given an opportunity to exercise the privilege under it instead of after making a contract have some foreign body dictate to them under what circumstances the contract should be carried out. I, for one, would not be in favor of a commission, but rather let each municipality exercise its own free will in matters purely local. At the same time I do not believe this organization ought to place itself on record as favoring one or the other without further information on the subject. It is a subject we ought to thoroughly be informed about, and I move that this matter be laid upon the table. (Seconded.)

**THE PRESIDENT:** It has been moved and seconded that the question under discussion relating to the power of the Railroad Commission over local public utilities pertaining to rates, be laid on the table.

**MR. SLOMAN:** I call for a rising vote.

**THE PRESIDENT:** So many as favor the motion to lie on the table please rise. Those opposed to the motion please rise. 18 ayes and 17 nays; the motion prevails.

I will ask unanimous consent to proceed to the regular order as fixed upon the program. We have with us as our invited guest, Major Petermann, who has come from Lansing to bring us a message born of experience in relation to the duties of lawyers in the present war emergency. Major Petermann, you have the floor.

**MAJOR PETERMANN:** Mr. President and Gentlemen of the Bar Association:

I asked Mr. Hamilton last night about what hour I might be expected to appear and talk to you and he said "you are on the program for nine o'clock, but you would not want to talk to the Association at that hour. You know they are quite likely to feel sort of grouchy at that time, and if you don't mind I will give them a chance to warm up a little bit before you go to it."

I want to say I have been sitting here for the last hour and as a preliminary matter I think the last hour has been quite a success. I have been particularly interested in the subject of the talks this morning and yesterday afternoon. Yesterday afternoon I walked in here and heard considerable discussion about the last legislature and once or twice about the Judiciary Committee, and I kind of straightened up and wondered whether I might get into it because I was chairman of the Judiciary Committee in the last legislature.

This morning you were discussing a proposition that brought back old times to me. I have been thinking of Mr. Boude-man's story last night, and if it had kept on much longer I might have found out I was the little runt they were looking after.

(See Appendix for Major Petermann's remarks.)

After Major Petermann's remarks the following discussion was had:

**Mr. SLOMAN:** In what form would you have it started in?

**MR. PETERMANN:** Perhaps a resolution. I want every lawyer in Michigan to take upon himself this responsibility. I am going to leave the method of doing it up to this Association.

**MR. SLOMAN:** If we should pass a resolution now calling upon every lawyer in Michigan to render services along the lines you have indicated, would that meet your plan?

**MR. PETERMANN:** I wish the lawyers here would make it their business to be particularly shining marks in the organizations of these committees.

**MR. SLOMAN:** I wish to move at this time that the remarks of Mr. Petermann be printed by this Association and that copies of it be sent every lawyer with a request that they conform to the suggestion he has made.

**THE PRESIDENT:** Mr. Petermann still has the floor. Until he waives that privilege I think he should be permitted to proceed.

**MR. PETERMANN:** I am through. I realize the importance of this work in the present emergency.

**THE PRESIDENT:** The gentleman who has the floor may proceed.

**A MEMBER:** Our local bar association has answered to all the calls made upon it by the Government or local draft boards, and this Association need take no action as far as we are concerned. I shall go home from this convention and call my associates together in a special session and this matter will be taken up as far as Van Buren county is concerned. No boy will go into the service from this time on without fully understanding all his rights.

**THE PRESIDENT:** May I ask the gentlemen who will do the same thing to rise. It seems to be unanimous.

If a motion is desired further upon this subject, I think it would be appropriate.

**MR. CHANDLER:** In order that we may have the matter before the house I move that the Secretary of our Association be instructed, at the expense of the Association, to obtain copies of the respective laws mentioned here and send them to each member of our Association; also that a summary of the remarks also be sent to each member of the Association.

**THE PRESIDENT:** Gentlemen, you have heard the motion, I will not repeat it; if you desire I will have it read. Are there any more remarks upon the subject?

**A MEMBER:** This is only a handful, not only of the Michigan Bar, but of your own Association. What are we going to do with the majority of the members of the bar of Michigan who do not know anything about it, who are not here?

**MR. DIBBLE:** I move an amendment to the motion that the Chair appoint a committee of three, the Chairman to be one of the number, to prepare a plan, conforming to Mr. Petermann's suggestions, for the action of the bar of Michigan, to be transmitted to the members of the Michigan bar together with the literature which was mentioned in the original motion.

**MR. JANUARY:** It seems to me this is becoming somewhat conflicting. As a member of the Local Advisory Board I have had considerable experience with some of the conditions Mr. Petermann has talked of. There are many who go to the front leaving their wives and children at home without any knowledge of these matters. The gentleman who spoke suggested the appointment of a committee of three, I think it should be more than three. I move that a committee be appointed, conforming to the ideas the gentleman suggested, to prepare an epitome of the laws of the United States for the protection of the families of soldiers and sent to each drafted man in the State of Michigan.

A MEMBER: I move that a committee of five be appointed by the Chair to carry out and execute the suggestions made by Mr. Petermann.

MR. BROWN: Mr. Hamilton should be a member of that committee, of course.

MR. DIBBLE: I support that.

THE PRESIDENT: You have heard the motion. Are there any remarks? As many as favor the motion say aye. Opposed, no. The motion prevails.

MR. BOUDEMAN: I would like to make one suggestion in connection with the motion just passed. It seems to me we have omitted one very important thing which it seems to me is material. You must take into consideration that a large number of the men who were in Class 1 are in the United States Army and a good many of them down at Camp Custer. It would be very difficult to interview those men. I therefore move that a committee of three be appointed to present to the soldiers in Camp Custer, and those that may go there later, the question of their rights and what the lawyers of Michigan are going to do. I move that a special committee of three be appointed by the Chair for that purpose.

MR. JANUARY: With all due respect to my brother I think the committee of five can perform all the duties necessary to be performed.

MR. MAYNARD: I think Mr. Boudeman's motion should prevail, for the reason that there are from 30,000 to 40,000 soldiers in Camp Custer at times.

THE PRESIDENT: Are you ready for the question. As many as favor the motion of Mr. Boudeman say aye. Opposed, no. The motion prevails.

There are a few items of business yet to be disposed of. I will call for the report of the Auditing Committee.

(See Appendix for report of Auditing Committee.)

**THE PRESIDENT:** If there is no objection, the report of the Auditing Committee will be accepted and placed on file. It is so ordered.

The report of the Nomination Committee is now in order.

(Mr. Weston presented the report of the Nomination Committee.)

(See List of Officers for report of the Nominating Committee.)

**MR. VAN HORN:** I make a motion that the report be accepted and adopted. (Seconded.)

**THE PRESIDENT:** It has been moved and seconded that the report of the Committee on Nominations be accepted and adopted. I understand that approves their work. So many as favor the motion please say aye.

**MR. BOUDEMAN:** Does that mean we approve their work?

**THE PRESIDENT:** I understand so.

**MR. VAN HORN:** I make a motion that the rule be suspended and that we adopt the report and that the Secretary of this convention be instructed to cast the ballot of this convention for each of the nominees therein named. (Seconded.)

**THE PRESIDENT:** It has been moved and supported that the report be accepted and adopted and that the Secretary be instructed to cast the ballot of this convention for the nominees. Are you ready for the question? So many as are in favor of the motion please say aye. Opposed, no. The motion prevails; the ballot is so cast.

**MR. SLOMAN:** May I ask for the attention of the Association for a few moments at this time?

**THE PRESIDENT:** Mr. Sloman, I am very desirous of having you do so, but I must remind you of the limitation of time. There are yet two important reports to be made, the report of the Committee on Education and the report of the Historical Committee. I think both of those reports will not require to exceed fifteen minutes. You have the floor.

**MR. SLOMAN:** Some years ago the Association appointed a committee to procure legislation providing for the working forces of the Judges of the Supreme Court. That committee framed a law and presented it to the legislature, providing for an appropriation of \$450,000. The bill passed the Senate and was referred to the House who reported it out without recommendation, practically at the close of the session, and it was not passed.

At the last session of the legislature one of the members of this Association, Mr. Foster, presented and procured to be passed a bill appropriating \$250,000 for building an office building upon one of the sites owned by the State at Lansing.

The Commission authorized to proceed with the work, procured an architect and obtained bids. The body in charge of the construction of this building in view of the proposed action of the Federal Government did not desire to do anything further until the close of the war, and the matter would be put off for years to come.

I appeared before the Ways and Means Committee of the House, accompanied by Judge McAlvay, who gave the Judge's version of the working quarters. Some of the judges were housed in the attic and some in down town offices. We, as an organization ought to find some way to provide suitable offices for the highest court in the State, and in order to accomplish it, at this time I move you, Mr. President that a committee of three be appointed, the President to be chairman, whose duty it shall be to get in touch with the Governor

and those connected with him in regard to the construction of an office building.

I believe that a misconception has arisen in regard to the construction of public buildings by the Federal Government, during the war. Buildings that are necessary for the public health and for the public good I believe ought to be carried on during the war. I therefore, move that a committee of three be appointed to communicate with the Governor and others identified with this work.

MR. JANUARY: I second the motion. I think it is high time that the State of Michigan provide not only respectable, healthy conditions for the judges of the Supreme Court, but do it now. An appropriation has been made for that purpose and the work ought to go on.

MR. SLOMAN: Also that the committee be authorized to expend whatever funds are necessary to carry out the ideas of the motion and that a voucher for the same be drawn by the chairman on the treasurer of the Association for the same.

MR. BROWN: I regret to dissent from the motion. This matter has been passed upon by the State Board of Auditors and the construction of the building has been officially postponed. It can have no other effect than to embarrass the State Board and the Administration. I do not agree with the proposition made by Mr. Sloman about the expenditure of funds. In this case the State Board has already passed upon the question. They are as much interested in behalf of the Supreme Court as we are. It strikes me that it is very inappropriate for us to take such action when a State Board has already determined it should not be done. It cannot result in anything but embarrassment, and I know of no reason why the State Bar Association should put itself in opposition to the law of the State of Michigan. We should await the wisdom of those in whose hands the administration of affairs have been placed.

MR. SLOMAN: In view of what Mr. Brown has said I am more than ever convinced of the need of carrying this motion. It is apparent that the Board acted upon a false impression as to the attitude of Mr. McAdoo upon the question of public buildings. I consequently hope the motion will carry.

MR. HOPKINS: What is the motion?

THE PRESIDENT: The motion is that a committee of three be appointed, of which the President of the Association be one, to bring before the legislature the matter of proceeding with the matter of securing suitable quarters for the Supreme Court, and that the expenses of the committee in doing this work be borne by the Association.

MR. SLOMAN: I call for a rising vote. This, Mr. President, is a very small matter, it means nothing more nor less than a trip to Lansing, that is all.

THE PRESIDENT: Are you ready for the question? So many as favor the motion please rise. So many as are opposed to the motion please rise. The motion is lost.

MR. GODDARD: Mr. President.

THE PRESIDENT: Mr. Goddard.

MR. GODDARD: I understand Governor Sleeper intimated that he desired to have introduced a resolution for the appointment of a committee of five, to be known as the Citizenship Committee. The resolution is as follows:

Pursuant to the suggestion of Hon. Albert E. Sleeper, Governor of Michigan:

*Be it Resolved*, That the President shall appoint a committee of five members, of which the Secretary of this Association shall be one, to be known as the Citizenship Committee, with full power.

(I) To cause to be printed, published and circulated within this State, documents of such character as will afford the public a better understanding of American History, institutions, principles and purposes, and

(II) To enlist and organize the members of the legal profession in this State to the end that they may assume and discharge the duty of acting as instructors to the uninformed touching the essential facts and principles of popular, constitutional government.

I move the adoption of the resolution.

Motion prevailed.

THE PRESIDENT: We have the report of the Committee on Legal Education and Admission to the Bar. In the absence of Mr. Bates, Mr. Goddard will present it.

(See Appendix for report of Committee on "Legal Education and Admission to the Bar.")

If there is no objection the report will be considered adopted and will be spread upon the record. The Chair hears no objection; it is so ordered.

I desire to name a committee of five who will have charge of the digesting and delivery of the laws passed, to the members of the Association and to the men in the service. I will say in justification of the selection, it may seem to be rather localized, that was done solely for the purpose of getting quick action and I have named gentlemen who will be available. Speedy action is the essence of the matter. The Chairman was selected by the Association. I will appoint in addition to the chairman named Walter S. Foster of Lansing, L. H. Sabin of Battle Creek, H. A. Silsbee of Lansing and Henry F. Jacobs of Battle Creek.

The committee of three will consist of Dallas Boudeman as chairman, Joseph L. Hooper of Battle Creek and Claude S. Carney of Kalamazoo.

The report of the Historical Committee is in order. Judge Cahill not being present Mr. Ryall has kindly consented to present it.

(The report of the Historical Committee was read by Mr. Ryall—see Appendix for report.)

THE PRESIDENT: You will find appended a resolution and a report sent here in relation to the death of Judge John B. Shipman. It was sent with the request that it be adopted, and I feel that we should adopt it.

Resolution read and adopted.

(See report Historical Committee.)

MR. BATES: I offer a resolution regarding Judge Ball and move it be adopted and incorporated in this report.

MR. RYALL: I move that the resolution of Mr. Bates be incorporated in this report as a part of the report.

THE PRESIDENT: You have heard the motion, gentlemen. There being no objection by unanimous consent it will be incorporated, and it is so ordered.

MR. MAYNARD: Last year an old veteran of the Civil War passed away. A man who had always in times of peace been a devoted friend of the Association and a man who brought honor to it. I ask that an opportunity be given for a resolution to be prepared to be also incorporated in this report, in reference to Judge Pealer.

THE PRESIDENT: There being no objection, by unanimous consent a resolution in relation to Judge Pealer will be incorporated in the report when presented and published with it. The Chair hearing no objection; it is so ordered.

If there is no objection the report of the Historical Commit-

tee will stand adopted. The Chair hears no objection; it is so ordered. Is there any further business?

MR. SLOMAN: I have just learned that the records of this organization have not been bound and put in permanent form. It seems to me they should be put in a permanent form and at least one copy of them filed in the library at Lansing. I, therefore, move that the records of this Association be bound in permanent form within a reasonable time, and at least one copy deposited in the library at Lansing, one in the library at Detroit and one retained in the office of the Secretary.

MR. SILSBEE: Do you mean reprinted? There can be but one volume bound, the old records are not here. With the exception of one or two they are all here and can be bound, but there can be but one preserved.

MR. SLOMAN: I think they are of sufficient value to be preserved in a permanent form; if necessary they should be reprinted, they ought to be preserved.

THE PRESIDENT: The motion is that the past records of this Association be permanently bound, one copy to be deposited in the State Library at Lansing, another copy in the library at Detroit and one retained in the office of the Secretary.

MR. BROWN: Why not Ann Arbor instead of Detroit?

THE SECRETARY: Does the Association wish me to go to the expense of printing several volumes? That will have to be done if more than one copy is to be preserved.

THE PRESIDENT: The motion contemplates the binding of three volumes. Are you ready for the question?

The motion prevailed.

THE PRESIDENT: There are two gentlemen present who have

resolutions they desire to offer, and I think we should hear them. I recognize the gentleman from Grand Rapids.

(Mr. Corwin offered a resolution that privately owned banks be under State regulation.)

THE PRESIDENT: You have heard the resolution. Are there any remarks?

MR. CORWIN: There have been a number of private banks failed in this State. I think within the last three months two have failed in Western Michigan and one at a point between Petoskey and Mackinaw. In every one of these instances the depositors were foreigners, people with no education, with no knowledge of banks. The word "bank" to a great many people means a place to deposit their money. For the protection of the public I think the matter should be taken up, so they may be educated to understand the difference between an ordinary bank and a bank that is controlled by State or National law.

MR. SLOMAN: It is regrettable that was not done long ago. That was brought up some years ago and was urged strongly in the legislature. The State Bank Commissioner should have control of every bank operating in the State of Michigan. Whether my Brother means they should go under the control of the State Bank Commissioner I don't know. I think that would be the proper thing to do.

MR. CORWIN: I suggest that we have a committee to work out how it should be done. I think they should come under the control of the State Banking Commissioner.

MR. CARNEY: I am in favor of this motion. Within the past few years we have had two private bank failures in Kalamazoo. In our investigations we found that in one instance that they were spending money to prevent any legislation to control private banks.

**THE PRESIDENT:** Are you ready for the question? As many as favor the motion say aye. Opposed, no. The motion prevails.

I am requested to announce that for the trip to Gull Lake automobile service has been provided and the machines will be in front of the court house ready to make the trip.

**MR. BROWN:** Mr. President.

**THE PRESIDENT:** Mr. Brown.

**MR. BROWN:** Before we go to our homes, having had such a splendid time, I move that we extend the thanks of the State Bar Association to the city of Kalamazoo and the Kalamazoo Bar Association and to the Calhoun County Bar Association, which I understand joined with them.

The motion was seconded and carried.

**MR. CAVANAUGH:** Mr. President.

**THE PRESIDENT:** Mr. Cavanaugh.

**MR. CAVANAUGH:** I do not suppose there are many law-offices in the State that have a complete collection of the Local Acts. I think the Local Acts are as important as the Public Acts. My idea would be to have legislation and have them prepared in such a way that we can readily examine them and be in touch with all the laws of the State.

To bring the matter to a head, I ask that in the matter of making the Local Acts accessible to the lawyers of the State that the matter be referred to the Legislative Committee with power to act, either by bringing a proper bill before the legislature, or otherwise.

**THE PRESIDENT:** You have heard the motion. Do you desire it restated? If understood, are there any remarks? As many as favor the motion say aye. Opposed, no. The motion prevails.

Do you desire to do anything further in connection with the report of the Legislative Committee? We have proceeded to the fifth heading.

**MR. FOSTER:** The next point is in reference to the taxation of municipal owned property outside of the jurisdiction of the municipality. The Governor has appointed a commission to consider that. The last point is in reference to the State Reports.

I think in fairness to the State Reporter it should be stated that illness of a very serious nature has been the cause of the delay. I am told that Mr. Reasoner, the State Reporter, is in a retreat from a nervous breakdown, and his successor has only recently been appointed and put in charge.

The committee would like further instructions as to the point of arresting without warrant where the offense is committed in the sight of an officer. The committee would like to know if there is any objection to a statute along the line suggested by Judge Faling, namely, that an officer anywhere in the State be authorized to arrest without having a warrant actually in his possession where a warrant has been issued. Is there any objection to that? If there is no objection to that we would like to bring it to the attention of the legislature.

**MR. SLOMAN:** I object to that.

**THE PRESIDENT:** I think, gentlemen, this completes the work of the session. I thank you, gentlemen, for the privilege of serving you during the past two years, and for the many delightful friendships, gained through that service.

In the absence of Mr. Clapperton, your President, who is detained in Washington on important Government business, I turn the gavel over to your Vice-President, Mr. Claude S. Carney, whom I now present to you.

**MR. CARNEY:** I had no notion what our President wanted. I thought he wanted to ask me something about the train time tables.

However, I simply wish to thank you for the honor such a distinguished body has conferred upon me.

To my mind this is the most epoch making State Bar Association meeting we have ever had. If we do nothing more than to get back to the doctrine that Prof. Sunderland advocated here it will make us probably the foremost State in the Union in progressive legislation; we have accomplished much.

I again thank you on behalf of the Kalamazoo and Calhoun County Bar Associations and want to urge each and every one of you to go out to Gull Lake and play with us, now that we have finished our work together for the past two days, and have a little recreation, and if there are any of your young fellows that can run bases any faster than our kid, little Dallas Boudeman, we would like to see you try it. There is one other record that we would like to see beaten if it can be. Bill Potter has considerable nerve as you have discovered. He is also regarded as absolutely unapproachable in Southwestern Michigan as a chicken eater. He can eat more chicken than any lawyer we have ever seen. His record of a year ago was five at one sitting. I can certify that the chickens were full grown. He is supposed to eat seven today. This is supposed to be a chicken dinner, and if there is any lawyer in Michigan that can surpass that record we want to give him a chance. Now let's go down and get into the automobiles. A motion to adjourn will be in order.

The meeting was here adjourned.



## APPENDIX



## **PAPERS AND ADDRESSES**



## "A LAWYERS' WAR."

ADDRESS BY BURRITT HAMILTON, PRESIDENT MICHIGAN STATE BAR  
ASSOCIATION.

The Kaiser remarked to Ambassador Gerard in 1915: "This is a lawyers' war." The statement, aimed at Lloyd George and other lawyer-statesmen, was a flare of the characteristic hatred which malefactors of all degrees, in all ages, have hurled against the means and ministers of justice. If this is a lawyers' war, one point at least is clear: there will be no compounding of the Kaiser's felony.

"A lawyers' war!" Gentlemen, the activities of the bar incident to this conflict will not end in this generation. When the German high command shall have learned the lessons of Waterloo and St. Helena; when its pompous armies shall have goose-stepped into oblivion—the last hospital burned, the last orphanage bombed, the last cathedral wrecked—their mayhems, murders and bestialities complete; when the allied armies shall have restored the decalogue to Berlin, and when the allied navies shall have dropped their anchors in the ports of peace, participation in readjustment of the political structures of a wiser world will remain, a continuing obligation of the bar.

Now must the bachelor of laws be wedded to his profession; the doctor of laws must become a surgeon to injured nations. The time is approaching when we must write into the law, national and international, new safeguards for a thousand years of liberty.

The law is unfinished. Architects and builders of jurisprudence are in demand. New materials are to be hewn from the forests of fundamental thought. Let us not say, "They will do it." Let us say, "We will do it." Want of books need not deter us: Justinian never heard of Blackstone, Blackstone knew nothing of John Marshall, Marshall never read Cooley's Constitutional Limitations. Much that has been written would yield most illumination under the influence of a lighted match. The lawyer whose vision is buckram-bound, though within the bar, is outside the profession. Neglect of public duty is the direct path to obsolescence. Today's battles for liberty will be followed by tomorrow's battles for law. We must be ready. It is for us to translate into safe rules of action the tragedies, the heroisms, the elemental conflicts, the multitudinous voices of this hour.

Adoption of the bar is a dedication of ourselves to public service. We must rise to the thought-plane of statesmanship. With the guns of the Huns thundering medieval maledictions against the gates of civilization, we must "manfully succeed or meanly fail" to justify our traditions. Ours must be the spirit of John Marshall, internationalized.

We are observing. We have seen, hastening to the British colors, Indians and trappers from the arctic circle, Arabs from sun-swept deserts, Mongolians, Ethiopians, South African Boers, dusky myriads from India, Malays from South Sea archipelagoes, our neighbors the Canadians, our antipodal friends from New Zealand and Australia—all of them animated by a common national spirit, rushing from the seven seas at the call of a little island, less than one-third the area of Texas.

Why did they come? Why have they offered their lives in defense of a nation whose laws many of them cannot read, whose language many of them do not understand? Ask them and they will tell you. They will say that, in the wild northwest, in China, India, Africa, and in the southern seas, wherever the flag of Great Britain has been raised, even-handed British justice—firm, fair and fearless—has been under it. The five races of men from the four quarters of the globe are able to interpret the language of fair play. In defense of this they have come together, a pageant of nations, arrayed in Gibraltar-like solidarity. They have written before our eyes on the pages of history an immortal epic whose theme is the cohesive quality of justice as an element of enduring empire.

There have been other lessons. We have seen the Monroe doctrine reach three thousand miles across seas to clutch the collars of offending potentates, that the schoolmaster at Washington might teach them the alphabet of decency from the primer of honor.

We have seen economy supplant waste, regulation supersede competition, order unfolded from chaos. We have seen the doctrine of States' rights submerged in a National army. We have seen that army rise like genii of the old Arabian tales. We have seen pacifism, bolshevikism, lafollettism, and kaiserism rebuked by the might and majesty of one hundred million Americans marshalled in defense of a principle. Under a moral leadership unsurpassed in the annals of time, we look today upon a *de facto* union of democracies.

Out of the public service of the hour, a new bar is born. That bar is to be the master historian of this war—for law is the sum of history. The conflict that ended at Runnymede is immortalized in Magna Charta. Our revolutionary struggle lives in the Federal constitution. Through three constitutional amendments the Civil War still thunders its diapason of equal rights. Artist and sculptor, poet and dramatist, novelist and correspondent, will preserve the incidents,

the names of heroes, the records of camps and battles: but the ringing step forward, the new national spirit, the moral victories, the unity of democracies, will speak through jurisprudence.

It is a sacred office to be a minister of religion; it is a distinguished service to be a soldier of liberty; but to perform with enlightened spirit the public duties of a lawyer is to discharge an immeasurable trust.



## UNIFORM STATE LAWS.

### MICHIGAN'S ADOPTION OF UNIFORM STATE LEGISLATION.

GEORGE WILLIAMS BATES,  
Commissioner,  
Of the Detroit Bar.

The twenty-seventh annual meeting of the National Conference of Commissioners on Uniform State Laws was held at Saratoga Springs last August. This Conference is a body composed of representatives of each State, Territory and Federal possession, who meet in annual conference under a permanent organization commonly designated the Commissioners on Uniform State Laws. The commissioners consist very largely of lawyers and judges of standing and experience and of law teachers from some of the principal law schools. There are usually three representatives from each State or Territory, appointed for terms of three to five years, generally by the Governor or chief executive, pursuant to statutes, which authorize the appointed commissioners to confer with the commissioners from other States and Territories for the purpose of drafting and recommending bills and measures to promote uniformity in State laws on subjects where uniformity seems practicable and desirable, such as bills and notes, sales, partnership, execution and proof of deeds and wills, taxation, warehouse receipts, marriage and divorce.

The commissioners from Michigan are the late Dan H. Ball of Marquette, who died in December, 1917,—the Hon. Edward Cahill of Lansing,—and George W. Bates of Detroit.

The officers of the Conference consist of a president, vice-president, secretary and treasurer, elected annually. The planning of the work and the arrangement of the program for the annual conference is done by an executive committee. The preparation of bills and measures is done by standing and special committees often acting with the assistance of recognized legal experts on the particular subject in hand, after conference and consultation with leading lawyers, judges, business men and commercial organizations. The work of the committee is reported to the annual conference where it is considered in detail, both as to substance and form by all the commissioners. No measures are approved until after full consideration and discussion in the conference.

This consideration frequently extends over several annual con-

ferences. In approving proposed measures the commissioners vote by States. Since the beginning of the movement in 1890, there have been twenty-seven annual conferences and every State, Territory and Federal possession is now officially represented. The following uniform measures have been prepared and recommended by the Conference and adopted by the various jurisdictions to the extent indicated:

The Negotiable Instruments Act, forty-eight jurisdictions,—including Alaska, Hawaii, District of Columbia and the Philippine Islands; the Warehouse Receipts Act, thirty-eight States; the Bills of Lading Act, nineteen States; the Uniform Sales Act, eighteen States; the Stock Transfer Act, twelve States; the Partnership Act and the Act relating to the Probate Foreign Wills, sixteen States; the Family Desertion and Non-supporting Act, eight States; the Marriage Evasion and Violation Act, four States; the Uniform Divorce Act, three States; the Marriage License Act, the Pure Foods Act, the Workmen's Compensation Act, the Act for the Extradition of Persons of Unsound Mind, the Uniform Land Registration Act and the Uniform Flag Law, which have not as yet been adopted by any jurisdiction.

There was also considered at the Saratoga Springs Conference the Conditional Sales Act, the Fraudulent Conveyance Act and Uniform Automobile Act.

#### UNIFORM STATE LAWS IN MICHIGAN.

Under Act No. 46 of the Public Acts of Michigan, 1913, the annual allowance for the actual expenses of the commissioners and for the expenses incurred in drafting uniform laws was increased to \$500.00 out of which the sum of \$150.00 was paid to the National Conference on March 4, 1915, and further sum of \$200.00 was also paid April 10, 1916, to the Conference.

The expenses of the Conference are met by the voluntary contributions of the several States and by many of the Bar Associations of the country, including the American Bar Association. This year there was contributed from all sources to the support of the Conference the sum of \$4,163.46, and the disbursements were the sum of \$2,486.56, leaving a balance of \$1,676.90 in the treasury for future requirements of the Conference.

The State of Michigan occupies an advanced position in the subject of Uniform State Laws. In 1905, it adopted the Negotiable Instruments Act, being the twenty-second State of the forty-eight States to adopt the Act. This Act has also been approved by the Supreme Court of Michigan in cases where many of its provisions have been cited as expressive of the law on the subject.

In 1909, it adopted the Uniform Warehouse Receipts Act as the eleventh State of the thirty-three States to adopt it.

In 1913, it adopted the Uniform Stock Transfer Act as the sixth of the eleven States to adopt it.

In 1911, it adopted the Uniform Bills of Lading Act as the third of the thirteen States to adopt it. (Iowa, Illinois, New York and Ohio having adopted it at the same time.)

In 1913, it adopted the Uniform Sales Act as the eighth of the eleven States to adopt it.

In 1911, it adopted the Uniform Act for the Probate of Foreign Wills, as one of the four States first to adopt it,—and, in March, 1917, it adopted the Uniform Partnership Act.

Thus Michigan has adopted seven out of the ten leading uniform acts passed by the National Conference down to and including March, 1917. This has placed Michigan among the leading States represented in the Conference on this subject. And the attitude assumed by the Legislature in the past towards the Uniform Acts submitted to it for adoption, has been that of great appreciation of the work done by the National Conference for the Promotion of Uniformity of Legislation in the United States. This subject has commended itself to their best judgment and merited their cordial support, thus showing, "that it is not more law which we want—but more uniform law."

#### THE UNIFORM PARTNERSHIP ACT.

The subject of a uniform act governing partnership was first taken up by the National Commissioners in 1903. It has been almost continuously under consideration since that time. The present act is the culmination of eight previous tentative drafts each drawn with care and discrimination and considered at great length by the several conferences. It is believed that the present act adopted at the meeting in Washington, October, 1914, represents an accurate, practical and just codification of the law upon one of the most important business subjects.

It was originally drawn by Professor William Draper Lewis, of the University of Pennsylvania Law School, assisted by Professor Lichtenberger of the same institution.

There are two theories as to the nature of a partnership, namely: The collective or aggregate theory and the entity or legal person theory. The National Conference adopted the collective or aggregate theory. This is what is known as the common law theory and is at present accepted in nearly all the States of the Union; but the Uniform Act combines the two theories on a satisfactory basis, recognizing the entity of the partnership but not as a separate legal person. One of its great advantages is that it avoids certain difficulties in dealing with partnership property with reference to creditors, besides it is a compact and definite statement of the law on all the principles of partnership.

## THE UNIFORM ACT FOR THE EXTRADITION OF PERSONS OF UNSOUND MIND.

This Act provides that a person alleged to be of unsound mind found in a foreign state, who has fled from another state, in which at the time of his flight:

(a) he was under detention by law in a hospital, asylum or other institution for the insane as a person of unsound mind;

(b) or he had been theretofore determined by legal proceedings of unsound mind, the finding being unreversed and in full force and effect, and the control of his person having been acquired by a court of competent jurisdiction of the state from which he fled;

(c) or he was subject to detention in such state, being then his legal domicile based on (personal service of process having been made) legal proceedings there pending to have him declared of unsound mind; shall, on demand of the executive authority of the State from which he fled, be delivered up to be removed thereto.

In such cases the executive authority of the State from which such person fled produces a copy of the commitment, decree or other judicial proceedings certified as authentic by the Governor of that State, with an affidavit showing the person to be such a fugitive; and it is the duty of the executive authority of the state in which he is found to cause him to be apprehended and secured, if found in such State; and to cause immediate notice of the apprehension to be given to the executive authority making such demand, or to the agent of such authority appointed to receive the fugitive; and to cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the apprehension, such person may be discharged.

This Act becomes of great importance when it is desired to extradite a person of unsound mind who has already escaped from an Asylum, and there is no law at this time by means of which such person can be extradited.

## THE UNIFORM LAND REGISTRATION ACT.

This is what is commonly known as the Torrens System (and was adopted by the Conference in 1916). In substance this Act provides for a Court of Land Registration.

In the first place, a petition must be presented to the court, which shall bring to view all the material facts and material parties before the court at once. It can only be filed by fee simple owners and must be sworn to and subscribed. Each petition is immediately filed and a notice of lis pendens is, at the same time, recorded in a proper deed book. The petition is then referred to one of the examiners of title, and on his report being filed, the court makes an order of publication, and every precaution is taken to notify any one who may

have any interest in or claim against the land. The case is then set down for hearing after the due proof of the publication has been filed. Surveys are made of the land and the court makes a final adjudication of the title. The final decree differs radically from any other decree "to quiet title" in an ordinary chancery suit. For this is a proceeding *in rem* good against all the world, while the former is only good against the parties to the suit.

The final decree becomes the Certificate of Title, which is registered with the Register of Titles and never goes out of the Registrar's office. Thereafter, if anyone wants to know the condition of the title, he will find it all in this ledger account. Whatever happens to the title after it has once been registered, must be registered in this ledger account to take effect against the title.

The owner is given an exact copy of the original certificate by the Registrar.

If you wish to transfer a registered title, you must not only make a short deed for the transfer, which must be signed and acknowledged by husband and wife, but the owner's duplicate must be carried to the Registrar's office before any voluntary transfer can be registered.

If a borrower pledges his duplicate certificate for a loan, the lender can rest assured that no other pledge or transfer can be made by the borrower without the surrender of the duplicate certificate. The duplicate certificate must always accompany every voluntary transaction with a registered title.

Land once registered is to remain forever registered and cannot be subject to rights by adverse possession or prescription.

An assurance fund is provided by a small tax of \$1.00 per \$1,000.00 of actual value, paid by everyone who registers land, to reimburse anyone who had no actual notice of any registration depriving him of any estate or interest in such land, and who is without other remedy under the act. All suits must be brought within two years after the right accrues. In actual practice the acts have been administered so perfectly that very few cases of claims against the assurance fund have arisen in the United States.<sup>1</sup>

The Uniform Land Registration Act has been adopted in Virginia. There are similar land registration acts in thirteen States, including California, Colorado, Illinois, South Carolina, North Carolina, Massachusetts, Minnesota, Mississippi, New York, Nebraska, Ohio, Oregon and Washington, and Hawaii and Philippine Islands; and, while not exactly the Uniform Act, they are sufficiently similar to satisfy all practical requirements.

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1. *Shevlin & Co. v. Fogarty*, 130 Minn. 456, 153 N. W. 871.

## FARM MORTGAGE LOANS AND UNIFORM LAND REGISTRATION.

The basis of a rural credit system in this country similar to that of Europe based on long term farm mortgages must be some method of uniform land registration by which titles will be certain and standard, and thereby become unquestioned security for bonds or debentures of any Federal system of land banks.

Uniform State laws as well as the Federal Credits Act are essential to such a system.

Mr. Eugene C. Massie of Richmond, Va., an authority on the so-called Torrens system, delivered an able and instructive address on the subject of "Commercial Land Titles," and made this statement in reference to the effect of such an Act: "Nothing short of registered title can give the land any of the true attributes of a commercial asset. To answer the great public needs we must make the land in a sense negotiable."

Hon. David F. Houston, Secretary of Agriculture, makes this statement before the Senate Committee on this subject: "There are only \$3,500,000,000 of farm mortgage loans in this country on \$40,000,000,000 worth of farm property. Still the clamor of the rural districts for capital to develop the agricultural industry is country-wide."

He also makes the statement that the rate of interest with commission on farm mortgage loans in the United States range from 5.3 to 10.5 percent, the average rate is no less than twenty different States being 8 to 10 percent; while the prevailing farm loan rates under modern rural credit systems in Germany, France, Norway, Denmark, Great Britain and in Australia are only  $3\frac{1}{2}$  percent to 4 percent.

The effect then would be that, under the proposed rural credits plan—with a Federal farm loan board and twelve regional farm land banks to give negotiability to the agricultural lands of the United States,—the aggregate, actual capital of America available in negotiable form for bankable purposes would readily be more than doubled, and thereby become one of the greatest and most dependable assets in our national finance.

The Senate Joint Committee in its report on Rural Credits to Congress, January 3d, 1916, with the draft of a bill "to provide a system of land-mortgage credits to the United States under Federal Supervision," (H. Doc. No. 494, p. 16) has this to say of necessary State legislation:

"It is well understood that the laws of the several States vary as to land titles, registry, exemptions, homestead rights, foreclosures and equity of redemption. It is, therefore, made the duty of the farm loan board to investigate these questions in each State and to declare mortgages ineligible as security for farm loan bonds in those States

where the laws do not give adequate protection to those loaning on first mortgage."

Section 30 of the Rural Credits bill, authorizing the farm loan board to declare ineligible for farm loans the lands of such State, as fails to provide the necessary uniform laws relating to the conveying and recording of land titles, and the foreclosure of mortgages and other instruments securing loans,—will have an important effect in securing a more prompt compliance with the State uniformity principle.

In the United States Census of 1910 now being compiled it will appear that the farm property of the United States was valued at \$40,000,000,000 and will doubtless exceed \$50,000,000,000.

"What is required," says Mr. Massie, "is a proper mechanism for effectively financing this greatest American asset."

There is every reason to believe that under a proper Federal system with effective State co-operation under uniform State laws, the American farmer will eventually enjoy the same adequate and economical use of capital which is found among the most favored agricultural countries of Europe.

The successful operation of the Federal Rural Credits Act is in fact dependent upon the universal adoption of the Torrens System, so that what is so essential to the prosperity of the farmer, can only be made available by the operation of that system. His registered title becomes a commercial asset and makes the land negotiable. It acquires something of the same "fluidity or negotiability" of land as has been brought about in the case of personal property by these uniform acts.

#### THE UNIFORM TORRENS ACT MEANS OF UNIFORMITY IN REGISTRATION OF LAND TITLES.

It is claimed that the Torrens System of Land Registration is revolutionary and that it is an attempt at radical reform void of practical benefit, but the fact that fourteen States have already adopted the Torrens System for their own use and the majority of these are among the leading States of the country,—that fact is proof that the Torrens System has been accepted in our country as "a desirable, legal process, and points unalterably to the need of immediate attention and legislative action throughout the country."

The main argument against the adoption of the Torrens System is drawn from the antiquity of the old law and the old custom, but nevertheless it is only a part of true wisdom to see if perchance there may be "defects discovered, improvements inaugurated and conditions bettered by extending through the process of unification, even though such policies may have been in themselves reversals of what had come to be considered settled doctrines."

Tested by individual opinion of those whose opinions are entitled to great consideration and persuasive force, we are drawn to regard the Torrens System as not only expedient, but, in the highest degree, beneficent and desirable.

Mr. Justice Hughes, when Governor of New York, signed a bill acknowledging the system after a thoroughgoing debate and investigation in which those arrayed on both sides had presented their arguments at their best.

A portion of the report of the Commission selected to consider this system, made after it had sifted the factors pro and con, and viewed the subject from all sides, both as a matter of fact and law, contains this significant statement:

"The method (referring to the old method), which is used in New York and most of the States in this country, grows more cumbersome as it becomes older, and in spite of efforts to make it less burdensome, is tending to break down of its own weight. The multiplication of records and complications of titles and the repeated expense of re-examination and the delays incidental thereto, should be avoided, if any possible method of doing so can be devised. We are clearly of the opinion that a system of registering titles may be put into operation in this State, in such manner as to avoid these and other difficulties incidental to the present system and to become of much utility and advantage to conveyancers and owners of real property."

The New York Commission, accordingly, recommended the Torrens System of Land Title Registration and drafted a proposed act, which was passed by the legislature and went into effect on the first day of February, 1909.

*There is now no question of its constitutionality.*

The leading Massachusetts decision is that rendered by Mr. Justice Holmes, now sitting on the Bench of the United States Supreme Court, in *Tyler v. Judges of Court of Registration*.<sup>2</sup> *People ex rel. Deneen v. Simon*,<sup>3</sup> is also a leading case on this subject. In that case it was insisted that by proceedings subsequent to the initial registration, any owner may be deprived of his property without due process of law. To this, the court said, quoting from *Arndt v. Griggs*:<sup>4</sup> In *Arndt v. Griggs*,—134 U. S. 316; 33 L. E. D. 918, it is said: "That a State has power by statute to provide for the adjudication of titles to real estate within its limits as against non-residents who are brought into court only by publication."

"The power of the State to regulate the tenure of real property within her limits and the modes of its acquisition and transfer, and

2. 175 Mass. 71, 55 N. E. 812, 51 L. R. A. 433; 179 U. S. 405, 45 L. ed. 252, 21 Sup. Ct. 206.

3. 176 Ill. 165, 52 N. E. 910, 44 L. R. A. 801, 68 Am. St. Rep. 175.

4. 134 U. S. 316, 33 L. ed. 918, 10 Sup. Ct. 557.

the rules of its descent, and the extent to which a testamentary disposition of it may be exercised by its owners, is undoubted."

On the general character and effect of the Torrens System, President Terry of the National Conference, says:

"Tested by business beneficence, the Torrens System would seem to satisfy, to the full, the most exacting requirements. Ease in the disposition of property, convenience of transfer, availability of assets, and values for commercial needs and mercantile contingencies,—all these attributes would seem to fairly attach to land under the ideal Torrens Law."

#### UNIFORMITY OF DECISION ON UNIFORM LAWS.

The element of uniformity in these laws is a matter of equal importance, and this comes to pass by their universal adoption by the different States. To secure this there must be uniformity of judicial decision, if the work is to achieve its full accomplishment, and the courts are inclined to follow the construction placed upon these acts by the decisions in other States, as stated in *Brown v. Brown*,<sup>5</sup> by Ransom, J.:

"Learned counsel for the defendant makes a most persuasive argument for a ruling in this State, that a payee be given no immunity from equities existent between the maker and his immediate transferee. But these considerations are far outweighed, in my opinion, by the importance of nation-wide uniformity in the law as to commercial paper and by the many evidences that, in enacting the uniform statute, the legislature sought to secure uniformity in the application of the law, and not merely in its phraseology. When a question arises in one of the uniform statutes, and courts of this State have not yet passed upon the interpretation of the portions of the statute involved, I conceive it to be the duty of the trial courts, in the interest of real uniformity in the application of these commercial enactments, to adopt and follow here the interpretation adopted by the courts of other commonwealths."

The leading case on the subject of uniformity is that of the Commercial National Bank of New Orleans v. Canal-Louisiana Bank and Trust Co. et al.,<sup>6</sup> in which the Supreme Court of the United States declared, Mr. Justice Hughes delivering the opinion of the

5. See also *Waugh v. Glas*, 246 Ill. 604, 92 N. E. 974, 138 Am. St. Rep. 259; *Peters v. Duluth*, 110 Minn. 96, 137 N. W. 390, 41 L. R. A. N. S. 1044; *People ex. rel. Smith v. Crissman*, 41 Colo. 450, 92 Pac. 949; *Robinson v. Kerrigan*, 151 Calif. 40, 90 Pac. 129, 121 Am. St. Rep. 90; *State ex. rel. Douglas v. Westfall*, 85 Minn. 437, 89 N. W. 175, 57 L. R. A. 297, 89 Am. St. Rep. 571; *American Land Co. v. Zeiss*, 219 U. S. 47, 55 L. ed. 82, 31 Sup. Ct. 200.

6. 91 Misc. 220, 154 N. Y. Supp. 1098.

7. Cases from the federal courts and from Arkansas, Connecticut, Illinois, Iowa, Kentucky, Maine, Massachusetts, and Missouri are also cited by the court.

8. 239 U. S. 520, 60 L. ed. 417, 36 Sup. Ct. 194.

Court, that the rule of construction established by the uniform warehouse receipts act requires that the cardinal principle of the act, which is to give effect to the mercantile view of documents of title, shall have recognition to the exclusion of any inconsistent doctrine which may have previously obtained in any of the States enacting it.

This principle of uniformity, which was once a beacon light of hope for those interested in the work of the Conference, is now clearly established.

Detroit, Michigan.

GEORGE WILLIAMS BATES.

### UNIFORMITY,—A PRINCIPLE.

Charles Thaddeus Terry, President of the National Conference of Commissioners on Uniform State Laws, says:

"Uniformity is not simply a name, it is a principle, and a principle which is of the very essence of democracy, if we mean by democracy that state of society in which there is one law equable in its application to the rights of all men alike everywhere; and to achieve that ideal in matters which relate to interstate interests or transactions, there must be one law given to all the states, and such law must be secured either by federal enactment, involuntarily imposed, compulsory upon all States, irrespective of their particular desires, or it must be secured by voluntary uniform State enactment growing out of deliberate initiative, which we believe the wiser and the safer, and the only one which is thoroughly consistent with democratic conception."

## THE TRAGEDY OF THIRTEEN DAYS IN 1914.

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(A review of the diplomatic correspondence preceding the World War of 1914.)

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An address before the Michigan State Bar Association, June  
28, 1918.

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BY HORACE L. WILGUS,  
Professor of Law, University of Michigan.

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### PREFATORY NOTE.

The substance of the following pages was read from notes, in an address in June to the Michigan State Bar Association. The Bar Association passed a resolution providing for the printing of the same.

The "notes" were not then in shape for printing; in preparing them for printing, I have quoted more fully the exact language of the documents, and in a few places made fuller statements, than were possible in the time limits of the address; otherwise the matter is the same. I have made an effort to give the exact citation for every important sentence from the documents.

The purpose has been to give as clear, concise, and accurate a statement,—with a maximum of the exact language used, and a minimum of comment,—of the diplomacy immediately preceding the war.

At the time the address was given I had read the *Collected Documents*, Beck's *Evidence in the Case*, and part of Headlam's *Twelve Days*. Since then I have examined with considerable care, the most important books in the annexed bibliography. I have found no sufficient reasons for changing the conclusions already formed

and expressed herein. I have however added a few notes based on some of these other authorities.

Any one who has read Mr. Beck's *Evidence in the Case*, will realize, as I do, how greatly I am indebted to him. Soon after the *Collected Documents* were printed in 1915, I received a copy through the courtesy of Sir Gilbert Parker. I read much of the material therein,—but was much confused by the semi-chronological arrangement by countries, which of course is the only proper official way; but it is extremely difficult to make out the connected story for all the countries, and the index alone gives but little help.

Sometime later I read Mr. Beck's book, and made extensive notes; I then undertook to verify them from the documents themselves; this was interesting and fascinating, but to get the full effect, I found that something like a concordance to the documents was necessary. I made one for my own use, and began the systematic study of the documents, for my own satisfaction, without thought of publication; while my conclusions are the same as Mr. Beck's and Mr. Archer's, they are based on my own study of the documents themselves; and it seems to me that any one with an open mind will be led irresistibly to the same conclusion by a like study.

This paper cannot take the place of such a study, or of the larger works, but it is hoped that many, who have not the time to read more extensively, may find here a sufficient basis for feeling that "thrice is he armed, who has his quarrel just."

As much as possible I have used *England*, for Great Britain, *Austria* for Austria-Hungary, and *Germany*, for the German Empire; and also, the same, instead of the name of the particular official representative of the country, when it seemed unnecessary to be more specific.

In 1914, I thought it probable the outbreak of the war was due much to bungling, and Machiavellian diplomacy, by incompetent diplomats, all being much, if not equally, to blame. I have been driven to the conclusion that, while that is true of the Central Powers, it is not true of the Allies; the latter, in my judgment, have been represented by high-minded, able men,—Sir Edward Grey, (England), Rene Viviani, (France), and M. Sazonof, (Russia), who did every thing they could honorably and honestly do to avoid war; while those of the Central Powers,—the Kaiser, Bethmann-Hollweg, Chancellor, and Von Jagow, Secretary of State, (Germany), and Berchtold, (Austria), neither high-minded, nor so able, but vicious, did every thing they could dishonorably and dishonestly to pretend to avoid a war which they had deliberately planned for their own iniquitous ends,—Austria to dominate Servia and the Balkans, and Germany to dominate Europe and the world.

Ann Arbor, Aug. 15, 1918.

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## THE TRAGEDY OF THIRTEEN DAYS IN 1914.

### INTRODUCTION.

The tragedy of which I shall speak this afternoon is the one that is revealed in the Diplomatic Correspondence of Europe, from July 23 to August 4, 1914, inclusive, immediately preceding and ending in the commencement of the World War. The occasion of this correspondence was the murder of the heir to the Austrian throne, on June 28, 1914,—four years ago today.

A very short historical review is necessary to understand the situation.

We speak of English, French, German, Italian, and Russian peoples, Races and  
and Teutonic and Slavic races, as if they were separate and distinct peoples.  
races; these distinctions, however, are based more on language and nationality, than on real racial characteristics, of a hereditary nature, such as stature, shape of the head, and color of the eyes, hair, and skin. Race, language, and nationality are now considered distinct things, and are rarely co-extensive; racial lines, more frequently, cut across both national and linguistic groupings. Recent investigators agree that "the living people of Europe consist of layer upon layer of diverse" populations, one after another having been submerged for a time by new comers, who have in later centuries been bred out, in considerable degree, by their conquered predecessors. This is so to such an extent in Europe today that "in the majority of cases, the citizen of any European nation carries within himself a mixture of every race which made its appearance in Europe," and "from the racial point of view the present war is to a certain extent a civil war."<sup>1</sup> Yet the history of Europe has largely been made up of the struggles between national groups—between French and German, Slav and Teuton. There are today perhaps, about 94 millions of Germans in Europe, of whom 64 millions are in Germany, 12 millions in Austria, and the remainder in the immediately adjacent countries. There are, too, some 140 millions of Slavs, comprising the Eastern, (Russia, Lithuania, Ruthenia), about 100 millions; the Western, (Poles, Czechs, Slovaks), about 25 millions, in a compact mass immediately adjoining the Germans on the east and north; and the Southern, (Bulgarians, Serbs, Croats, and Slovenes), about 15 millions in a compact mass south of the Danube river to the Aegean sea.

1. See Osborn, H. F., *Men of the Old Stone Age*, (1915); Ripley, W. Z., *The Races of Europe*, (1899); Grant, M., *The Passing of the Great Race*, (1918).

Separating the east and west, from the south, Slavs, are the Hungarians, (or Magyars), about 10 millions, immediately east of whom are the Rumanians, about 12 millions,—about one-third being in Austria-Hungary.<sup>2</sup>

Turks.

In 1683, the Polish patriot king, John Sobieski, turned back the high tide of Turkish conquest almost from the very gates of Vienna. It had then overflowed all the territory of central Europe from the Carpathian mountains on the north to the Aegean sea on the south, and from the Black sea on the east to the Adriatic on the west.

Balkans.

In 1699, Hungary and Transylvania were acquired by Austria; Croatia and Slavonia about 1718; Bohemia, 1741; and Galicia by the partition of Poland, 1772-1795; and Dalmatia in 1814. Russia and Germany, or rather Prussia, had acquired large parts of Poland, at its partition, 1772-1795; and Russia acquired Bessarabia in 1812. The territory south of the Danube river and the Transylvanian Alps constitutes what is called the Balkan States. They include Rumania, Bulgaria, Servia, Montenegro, Albania, Greece, and Turkey in Europe, with nearly 200,000 square miles of territory, and about 25 million people,—that is nearly the size and more than one-third the population of Germany.

Slavs.

A very large proportion of the people in this territory are Slavs, or of Slavic descent, or of strong Slavic admixture, closely related to the Russians. About 8 millions are Rumanians; 5 millions, Bulgarians; 6 millions, Serbs; 5 millions, Greeks; and a little more than one million Turks; all, however, except the Turks, have a large substratum of the Slavic blood. Nearly 20 millions are Christians, more than 18 millions being members of the Eastern or Grecian church in some of its branches. In addition to these Slavic peoples in the Balkan States, there are in southern Austria-Hungary, (Bosnia, Herzegovina, Croatia, and Slavonia), 5 million more Slavs, (Serbs, Croats, and Slovenes), closely akin to the Serbs of Servia; while in the north of Austria-Hungary and southern and eastern Germany, there are about 21 million more Slavs, (Czechs, Poles, Ruthenians, and Slovaks). A large part of these are Catholics.<sup>3</sup> For more than 140 years, since the treaty of 1774, Russia has claimed, and has been conceded, to be the special champion of these Christians of the Greek church, against the oppression and cruelties of the Turks.<sup>4</sup>

Political theories.

Down nearly to the nineteenth century, the political theory on the continent of Europe was that of "Government by Divine Right,"

2. See Stateman's Year Book, 1915, and Encyclopedia Britannica, 11th Ed., Europe, with maps; also may in Hayes, *Modern Europe*, Vol. 2, pp. 330, 427.

3. See Statesman's Year Book, 1915; Encyclopedia Britannica, 11th Ed., Europe, and the various countries; and Hayes, C. J. H., *Modern Europe*, Vol. 2, pp. 490-498.

4. Treaty of Kuchuk Kainarji, (1774). Hayes, *Modern Europe*, Vol. 1, pp. 386, 387; Historians' History of the World, Vol. 24, p. 419.

centered in a Feudal Monarch, characterized by "absolute power," "divine authority," "hereditary right," and "private, exclusive, proprietary ownership" in the right to govern. The Kaiser still holds to this doctrine.<sup>5</sup>

The English revolution, (1688), the American revolution, (1776), and the French revolution, (1789), were direct and successful challenges to such political doctrines. Immediately following the American and French revolutions, a wave of hope of freedom ran over Europe like an electric current; this and the genius and ambition of Napoleon threatened and imperiled the absolute monarchies of all Europe. In western Europe this cry for freedom demanded liberty secured by written constitutions; in the Balkan states it took, in addition, the shape of struggles to secure independence from the dominion of the Turk. Struggle for liberty.

The Congress of Vienna, 1814-1815, made up of the one hundred absolute monarchs, kings, and dukes, presided over by Metternich, after the downfall of Napoleon, re-arranged the map of Europe, on the principle of the *status quo ante*, and the "balance of power," wilfully disregarding all racial and national aspirations, restoring the boundaries of the reigning families, using the people as pawns for dynastic aggrandizement, and providing for the suppression of liberalism. It thereby blocked, but did not quench the hope of Liberty.\* Congress of Vienna.

For the most part the struggle from 1815 to 1850, resulted in the granting of "camouflage" constitutions, by absolute monarchs, giving the shadow, but withholding the substance of Liberty, Equality, and Fraternity.<sup>7</sup> Montenegro early obtained her independence of Turkey, and Greece likewise, in 1830, but the other Balkan states failed until 1878-1908. Constitutions.

Bismarck appeared on the scene as Prime Minister of Prussia, in 1862, announcing that great questions are not decided by votes and majorities, but by "blood and iron," and in violation of the Prussian constitution and contrary to the will of the majority of the people re-organized the Prussian army.<sup>8</sup> The next year he induced Austria Bismarck.

5. In a speech at Koenigsburg in 1910, the Kaiser said: "Here my grandfather placed the crown on his head, insisting that it was bestowed upon him by the grace of God alone, as the chosen instrument of heaven. I consider myself such an instrument of heaven."

6. Hayes, *Modern Europe*, Vol. II, pp. 1-148.

7. For example: The Prussian Constitution of January 31, 1850, still in force, was granted by "Frederick William, (IV), by the grace of God, King of Prussia," etc.; in a suit in Missouri in 1856, (22 Mo. 550), he says he "is the absolute monarch of the kingdom of Prussia, and as king thereof is the sole government of that country; that he is unrestrained by any constitution or law, and that his will, expressed in due form, is the law of that country, and is the only legal power there known to exist as law." The Kaiser says: "The supreme law is the will of the king." "That is the nature of monarchy; there is only one master, and that is I."

8. Kruger, F. K., *Government and Politics of the German Empire*, (1915), pp. 17-18.

to aid Prussia in wresting Schleswig and Holstein from Denmark, in violation of the treaty of 1852, to which they were both parties.' He then quarreled with Austria over the spoils; attacked her; defeated her in seven weeks; imposed \$15,000,000 war indemnity on her; annexed Schleswig and Holstein, and added 30,000 square miles of territory and five million of people to Prussia. He then kicked Austria out of the old German confederation; formed the North German confederation in its stead with Austria left out, drew up its constitution over night, and forced the smaller north German states into it. This North German Confederation constitution is the basis of the present constitution of the German Empire."

In 1870, he secretly induced Russia to break her treaty of 1856 as to its Black sea clauses, in order to discredit her with the other powers.<sup>9</sup> The same year he secretly and vigorously urged the Hohenzollern Prince Leopold, for succession to the Spanish throne, in order to stir up France, though publicly stoutly denying that the *ministry* had anything to do with it; and by modifying the Ems telegram, he deliberately brought on war with France.<sup>10</sup> In six months France was crushed; \$1,000,000,000 indemnity was imposed on her; 5,600 square miles of Alsace-Lorraine, with 1,600,000 population annexed to Prussia; and Potash mines, worth \$3,000,000,000 and the greatest iron ore beds in Europe, were secured.<sup>11</sup>

Bismarck then turned again to Austria, who had cooled off somewhat, from her treatment in the Schleswig-Holstein matter, and suggested to her that she recoup herself for her losses, by annexa-

9. Mowat, R. B., *Introduction to Select Treaties*, Oxford Pamphlets, No. XVIII. (1914-15).

10. Prussia objected to the extension of the Danish constitution to Schleswig, by the King of Denmark. Bismarck, falsely representing to the Danish king that England was about to intervene in his favor, thereby induced him to remain defiant; this gave Bismarck the excuse he wanted to invade Schleswig and Holstein. Many years later he said, "From the beginning I kept annexation constantly in mind." See, Mowat, as above; *Encyc. Brit.*, 11th Ed., Schleswig-Holstein Question: 2 Hayes, *Modern Europe*, p. 186.

Hanover, Hesse-Cassel, Nassau, Frankfurt, Hesse-Darmstadt, and Saxony made the mistake of siding with Austria in this matter, and so they were "annexed" to Prussia, or an indemnity imposed upon them. See, Stevens, F. W., *Prussia's Territory—Where Did She Get It?* (1917), pp. 4-8.

11. Bismarck told the British Ambassador at Berlin, at the time that the Russian circular, denouncing these clauses, "had taken him by surprise," but years later confessed that he had himself initiated and instigated Russia's action.—*Parl. Papers*, 1871, Cd. 245; Bismarck's *Reminiscences*, Vol. II, 115.

12. See 2 Hayes, *Modern Europe*, pp. 198-199; *Encyc. Brit.*, 11th Ed., Bismarck; Bismarck was "buffy" because King William, received and talked to the French Ambassador, at Ems, concerning the candidature of the Hohenzollern Prince, without referring the matter to him, and had decided to resign. He had asked Roon and Moltke to dine with him, and told them his plans. They were much depressed. He says: "During our conversation a telegram from Ems was handed to me. . . . I reduced the telegram by striking out words. . . . I read the concentrated edition to my guests. . . . I went on, 'If I communicate at once this text to the newspapers . . . it will be known in Paris before midnight, and . . . will have the effect of a red rag upon a Gallic bull.' Moltke said 'If I may but live to lead our armies in such a war, then the devil may come and fetch away the old carcass.'"—Bismarck's *Reminiscences*, Vol. II, pp. 87-103.

13. See Stevens, F. W., *Prussia's Territory—Where Did She Get It?* (1917), pp. 7-9.

tions in the Balkans, then struggling for independence from Turkey. The time came in 1875-76, during Christian insurrection in Herzegovina and Bulgaria, repressed by such savage barbarity by the Turks as made all Europe indignant. The Turks developed unexpected strength. Russia came to the rescue. Austria shirked. After enormous expense and sacrifice Russia defeated Turkey; the preliminary peace terms were not satisfactory to Austria, who claimed that Russia's effort alone to make peace with Turkey violated the provisions of the Protocol of 1871,—entered into by all the powers, at Bismarck's suggestion, after the notice of the repudiation of the Black sea clauses of the treaty of 1856, by Russia, referred to above,—“that no Power \* \* \* can modify treaty provisions, except with the consent of the contracting parties by mutual agreement,” since Austria, Russia, Germany, France, England, and Turkey were parties to it. Russia submitted and consented to the calling of the Congress of Berlin, in 1878, under the presidency of Bismarck, who, acting as an “honest broker,” failed to support Russia, as she had a right to expect, because of her neutrality in the Franco-Prussian war. Rumania, Servia, and Montenegro were made independent of Turkey; Bulgaria was not; Montenegro was placed under the tutelage of Austria, and Bosnia and Herzegovina, while left under Turkish sovereignty, were to be “occupied and administered” by Austria-Hungary. In this way Russia was very largely deprived of any of the larger advantages of her great sacrifice.<sup>14</sup> England was, perhaps, as much to blame for the final results, as was Germany or Austria.

The six great powers of Europe were divided into two camps, the Triple Alliance between Germany, Austria-Hungary, and Italy, since 1882; and the Triple Entente, between Great Britain, France, and Russia, since 1904. Their exact terms have never been fully published. In 1879 Austria and Germany formed the Dual Alliance, by which they mutually agreed to support one another, if either was attacked by Russia, or by some other power aided by Russia, “with the whole of the military power of their empire.” In 1882, Italy became a party to it, and in 1914, claimed it was only for defensive, and not aggressive, purposes.<sup>15</sup> Sometime between 1891 and 1897 France and Russia entered into a defensive alliance, such that “the relations of Germany with Vienna were no closer than those of France with Russia.” In 1899, England and Russia came to mutual agreement concerning their relations with China, and in 1907, settled all their difficulties in reference to Persia, Afghanistan, and Thibet. These, however, related only to their respective spheres of influence,

14. See, Mowat, *Introduction Select Treaties*, Oxford Pamphlets, (1914-15); *Encyc. Brit.*, 11th Ed., *Europe*; *Berlin, Congress of*; 2 Hayes, *Modern Europe*, pp. 498-509.

15. See Mowat, *Select Treaties*, *Introduction*, p. lli, and pp. 20, 23; also Scott, *Diplomatic Docs.*, Vol. 1, pp. 335, 346.

and were not defensive alliances. In 1904, Great Britain and France had also come to satisfactory agreements as to Egypt, Morocco, Newfoundland, and Senegambia, and thereby settling all outstanding difficulties between them. These constituted "the understandings" of the Triple Entente, which was a "diplomatic group" instead of a defensive alliance, except as between France and Russia; it left Great Britain "free from engagements." For sometime, also, after 1905, French and British naval and military experts had, by authority, consulted together, but it was understood "that such consultation does not restrict the freedom of either government to decide at any future time whether or not to assist the other by armed force."<sup>16</sup>

Austrian coup  
in Balkans.

In 1908 the Turkish revolution occurred. Bulgaria declared her independence of Turkey. Austria, backed by Germany "in shining armor," and in violation of the treaties of 1871, and 1878, to which they both were parties, annexed Bosnia and Herzegovina. This greatly roused Turkey, Russia, and all the Slav states, especially Serbia, which saw her hopes for access to the Adriatic sea disappear, and likewise her desire for economic independence of Austria. She appealed to Russia, who protested at Vienna without avail. England, also, vigorously protested at the high-handed manner of over-riding the provisions of solemn treaties. Great Britain, France, and Russia asked for a conference; Germany refused to join, unless Austria consented, and she refused. Germany then mobilized her army against Russia, on the Polish frontier, and by a threatening autographic letter from the Kaiser, forced her to abandon her request for a conference, and assume \$9,000,000 of the Turkish debt as compensation for the independence of Bulgaria. Russia was so obliged to humiliate herself thus, for she had not yet recovered from the results of the Japanese war.<sup>17</sup> Prince Bulow, then German Chancellor, says: "The German sword had been thrown into the scale of the European decision, directly in support of our Austro-Hungarian ally, indirectly for the preservation of European peace, and above all for the sake of German credit, and the maintenance of our position in the world."<sup>18</sup>

Bitter feeling  
resulting.

All this resulted in the creation in Russia and in the Balkan states generally, especially among the Slavic population, intensely bitter feelings, and for many years the organization of secret societies and extensive propaganda have taken place looking toward the establishment of greater Slavic states. This has been particularly pronounced in Serbia, struggling for a "Greater Serbia," with nationalist ambitions incompatible with Austrian sovereignty over Bosnia and Her-

16. Mowat, *Select Treaties*, Introduction, pp. lli-lxi, and pp. 1-18; Collected Diplomatic Documents, pp. 79-82, 181; Scott, *Diplomatic Docs.*, pp. 623, 967-969, (Eng. White Paper, 105; French Yellow Paper, 74).

17. Mowat, *Select Treaties*, pp. 78-87; Chitwood, O. P., *The Immediate Causes of the Great War*, (1917), pp. 22-25.

18. *Imperial Germany*, pp. 51-52.

zegovina, and other parts of the "Dual Monarchy," inhabited by Slavic peoples. Austria-Hungary was looked upon as a second Turkey, "where the groans and tears of the Servian brother are heard, and where the gallows has its home." "The enemy is insatiable in his lusts; he holds millions of our brothers in slavery and chains. He took law and freedom from them, and subjected them all to his service. The brothers murmur and beg for still quicker help. We must not leave them to the mercy of this fearful and greedy enemy. We must hurry to their help." "We have dismembered the Turkish empire, we will dismember Austria too."<sup>19</sup> These were unofficial statements in newspapers and speeches, made after the declaration of 1909, whereby the Servian Government promised to renounce her attitude of protest to the annexation of Bosnia and Herzegovina, and thereafter live on good neighborly terms with Austria.<sup>20</sup>

#### MURDER OF THE ARCHDUKE.

June 28, 1914, Franz Ferdinand, Archduke, Crown Prince, and heir to the Austrian throne, and his wife, were murdered at at Serajevo, the capital of Bosnia, one of the Austrian provinces annexed in 1908, about fifty miles from the Servian frontier, by two Bosniaks, both Austrian subjects, one of whom, when in Serbia, had been considered dangerous, and Serbia had tried to expel him, but was prevented by Austria claiming he was harmless.<sup>21</sup> The Austrian papers immediately charged that the murder was due to a Servian conspiracy.<sup>22</sup> The Servian Royal family and the Government immediately sent messages of condolence, and canceled festivities to take place in Belgrade on that day.<sup>23</sup> Two days later the Servian minister at Vienna, informed Austria that the Servian government was "prepared to submit to trial any persons implicated in the plot, in the event of its being proved that there are any in Servia."<sup>24</sup> The Austrian papers, controlled by the Government, constantly charged that the Servian people rejoiced over the murder, especially at Belgrade, Nish, and Uskub, as an act of revenge for the annexation, and as a step looking to the detachment of territory from Austria.<sup>25</sup> Servian officials how-

Took place in Austria.

By Austrian subjects.

Charged against Servia.

19. These are sample quotations. The first and last are from Servian Newspapers, of 1912-13; the middle one is from a speech of the President, (a major in the Servian army), of the "Sokol Society," in January, 1914. Collected Diplomatic Docs., pp. 474, 475, 481; Austrian Red Book, Appendix 1, 3.

20. Collected Diplomatic Docs., p. 3, Brit. Dip. Cor., No. 4.

21. Col. Dip. Docs., pp. 27, 373; Brit. Dip. Cor. No. 27; Serv. Blue Book, No. 8.

22. Col. Dip. Docs., pp. 372, 374, 376, 378, 384; Serv. Blue Book, Nos. 8, 12, 16, 17, 30.

23. Col. Dip. Docs., p. 384; Serv. Blue Book, No. 30. Austria claims festivities were not stopped for more than 5 hours, ARB. 448.

24. CDD, p. 371; SBB, No. 5. (Hereafter CDD=Col. Dip. Docs., and SBB=Serv. Blue Book.)

25. CDD, pp. 448, 449, 450; Austrian Red Book, (ARB.), Nos. 1, 3, 5, 6.

ever, claimed that "the Serajevo outrage has been most severely condemned in all circles of society, inasmuch as all, official as well as unofficial, immediately recognized that this outrage would be most prejudicial not only to our good neighborly relations to Austria-Hungary, but also to our co-nationalists in that country," and that "it was of the greatest interest to Serbia to prevent the perpetration of this outrage. Unfortunately this did not lie within Serbia's power, as both assassins are Austrian subjects."

#### INVESTIGATION BY AUSTRIA.

Results not  
published.

A secret ministerial investigation was made by the Austrian District court, in the prison at Serajevo; this lasted for nearly a month; Serbia was not notified and was not asked to participate." Almost nothing was said officially during this time; the results of the findings were not published. There was little popular clamor at the time, although the Austrian papers persistently charged the Servian government with complicity, at least by sufferance, in the murder; the German and English newspapers repeated these statements from the Austrian papers; to all these the Servian papers made bitter denials and counter-charges."

#### KNOWLEDGE OF DIPLOMATS.

Germany  
alone knew.

Aside from German officials, none of the European diplomats had any direct or definite knowledge of the results of the findings at the investigation, or the probable acts or claims of Austria. She studiously withheld these from the representatives of all the powers, in-

26. CDD, p. 372; SBB, No. 8.

NOTE.—*The murder of the Archduke.* The Archduke was a man of strong and independent will, greatly loved by the army, but almost hated by the Bosnians. His political views did not accord with those of the Austrian and German Emperors, whose policy was to dominate and repress the political aspirations of the Slav population of the Austrian Empire. The Archduke's hope was to appease these people, and erect them into a Slavic state, reaching to the Black Sea, making the dual monarchy a triple monarchy, each state having an independent status of its own but bound to the Monarchy, through the Emperor, in all affairs and interests it had in common with the others. This would have blocked the Servian hopes of a Greater Serbia, and also the Kaiser's "Mittel-Europa" plans. The Kaiser and the Archduke were not friends; in fact detested one another; their last interview, a few days before the murder, was most stormy. The Archduke strongly objected to the programme of greatly increased military preparations, urged by the Kaiser, and the Hungarians, to be used for subjecting the Servians by force. The Kaiser immediately telegraphed Budapest of the Archduke's refusal to approve. That there was a plot to murder the Archduke, at his proposed visit to Sarajevo, was known at Vienna, Budapest, and Belgrade. Serbia warned Austria of this, yet the Archduke was not informed, nor was any effort made to dissuade him from making the visit, nor were any effective steps taken to protect him.—

Davenport, *History of the Great War*, (1916), pp. 82-87.

27. CDD, pp. 371, 377, 381, 385; SBB, Nos. 5, 16, 23, 30. British and German Ideals, reprinted from Round Table, 1914, 1915, p. 107.

28. CDD, pp. 370, 371, 372, 373, 374, 376, 378, 379, 380, 382, 383, 384; FYB, No. 14; SBB, Nos. 1, 2, 3, 4, 7, 8, 9, 11, 12, 15, 16, 19, 20, 21, 22, 24, 27, 28, 30.

her ally, Italy,—except Germany.” It was generally assumed the investigation showed Servian complicity, demands of some kind be made on the Servian government, by Austria, but it officially stated that her claims would be moderate, and contain nothing with which a self-respecting State need hesitate to comply.”<sup>29</sup>

#### THE GREATER TRAGEDY.

The murder of the Archduke and his wife was a tragedy, but in itself was not different from such as have occurred before. Its awful significance is in furnishing the occasion and pretext of that infinitely greater tragedy, that for the past four years has drenched the world in blood.

It is my purpose to examine the responsibility for this calamity,—mainly from the records of the Diplomatic Correspondence immediately preceding the commencement of the war. At the end, I will refer briefly to some matters that are not in the official records, but are fully established otherwise.

#### THE RECORDS.

These include the various official publications of the respective governments, of parts or all of the diplomatic correspondence, contained in the popularly called colored books or papers: The British Blue Books, (BBB) (1) and (2), 342 pages, and 371 documents; the French Yellow Book, (FYB), 237 pages, 185 documents; Russian Orange Books, (ROB), (1) and (2), 107 pages, 177 documents; Belgian Grey Books, (BGB), (1) and (2), 182 pages, 198 documents; Serbian Blue Book, (SBB), 50 pages, 53 documents; Italian Green Book, (IGB), 120 pages, 73 documents; German White Book, (GWB), 90 pages, 43 documents; and Austrian Red Books, (ARB), (1) and (2), 344 pages, and 274 documents. With two exceptions, these documents give in detail what passed between the Capitals of Europe during these days. The two exceptions are: the communications made by Austria to Germany, Vienna to Berlin, and the reverse. The documents show that much communication took place between these capitals, but almost nothing of it is published in either the German White Book, or the Austrian Red Books. The terms of these communications have been withheld, and are conspicuous by their absence.<sup>31</sup>

29. CDD. pp. 30, 114, 158, 165, 176, 396; Brit. Blue Book (BBB.), Nos. 38, 161; French Yellow Book (FYB), Nos. 26, 27, 35, 50; SBB. No. 52.

30. CDD. pp. 115, 152, 395, 396; BBB. No. 161; FYB. No. 20; SBB. No. 52.

31. There are three principal collections of these documents: Collected Diplomatic Documents, (CDD), London, 1915, p. 561. This does not include BBB (2), BGB (2), ROB (2), nor ARB (2). BBB (2) contains correspond-

Full records  
except  
between  
Austria and  
Germany.

## DELIVERY OF THE ULTIMATUM.

Reply  
demanded in  
48 hours.

Diplomats on  
vacations.

At 6 p. m., Thursday, July 23, 1914, the Austrian Minister at Belgrade, handed a Note<sup>31</sup> to the Acting Prime Minister of Servia, to be answered within 48 hours, that is, by 6 p. m., Saturday, and added that "he and his staff would leave Belgrade unless a favorable answer were forthcoming within the stipulated time."<sup>32</sup> The Servian Ministers were absent from Belgrade, at the time; the President of France and the President of the Council and Prime Minister for Foreign Affairs, were known to be at sea on their way home from St. Petersburg which they had left the same night; the German Emperor was in Scandinavia; and the Prussian Ambassador at Vienna had left a few days before, on the assurance of Austria "that the demands on Servia would be thoroughly acceptable." The Italian Minister for Foreign Affairs was also away from Rome.<sup>34</sup> The Austrian Minister for Foreign Affairs left Vienna on July 25, (the day Servia's reply was due) to go to Ischl, six hours away.<sup>33</sup>

## CHARGES IN THE ULTIMATUM.

Subversive  
movement  
against Servia  
alleged.

This ultimatum alleged the existence in Servia of a "subversive movement," born under "the eye of the Servian government," with

31. *Con.*

ence between England and Turkey; BGB (2), between England and Belgium; ROB (2), between Russia and Turkey; ARB (2), between Austria and Turkey. Scott, J. B., *Diplomatic Documents*, (SDD), Parts 1 and 2, 1916. The Times (London) *Documentary History of the War*, Vols. 1 and 2, Diplomatic, (TDD), 1917. These documents are, in the main, arranged chronologically by countries, and are given a number by which they are cited. These numbers do not exactly correspond, in a few cases, in the different collections. The CDD were the first to be published, are official, and are the basis of all the others; they were published as "British White Papers, (BPW), Miscellaneous." The BBB (1), Misc. Nos. 6, 8, 10, Sept., 1914; FYB, Misc. No. 15, Dec., 1914; BGB (1), ROB (1), ARB (1), SBB,—all Misc., Oct., 1914. These and GWB (1) were gathered together and published as CDD in one volume in 1915. The GWB (1) was laid before the Imperial Diet, August 8, 1914, and published very soon thereafter by the Imperial Foreign Office, with the "only authorized translation" into English, "by Liebhelt and Thiesen," Berlin; the second GWB was published by authority early in 1915, with an authorized translation into English; all of GWB (1) is reprinted, but the new authorized translation differs somewhat from the "only authorized" one first published. BBB is often cited as BWP, (British White Paper), or BDC, (British Diplomatic Correspondence), or EWB, or EWP, that is, English White Paper or Book, or just E. The others are also cited quite often as "Papers," as FYP, or BGP, etc. The TDD cites them: B=BBB; G=BGB; O=ROB; R=ARB; S=SBB; W=GWB; Y=FYB. The TDD seem to have much the best index and cross-references. Both SDD, and TDD have very helpful tables of contents of the separate "books," giving number, date, parties and contents of each document, chronologically, and page where found.

32. On July 23, the Austrian Ambassador at London told Earl Grey that the Note, (which he would deliver the next day), "would be something in the nature of a time limit, which was in effect akin to an ultimatum." The next day Austria insisted that it was a "démarche with a time limit." It was treated by all as an "ultimatum." CDD, pp. 2, 14, 16, 17, 18, 20, 21, 157, 159, 424.

33. CDD, p. 388; 2 SDD, 1469; SBB, No. 33.

34. CDD, p. 388; 2 SDD, p. 1469; SBB, No. 33; CDD, p. 266; 2 SDD, p. 1331; ROB, No. 1; CDD, pp. 15, 154, 161, 165, 169, 171, 176; 2 SDD, pp. 880; 1 SDD, pp. 568, 582, 592, 594, 595, 604; BBB, No. 6; FYB, Nos. 22, 29, 41, 44, 45, 50, 51.

35. CDD, p. 23; 2 SDD, 893; BBB, No. 20.

the object of detaching territory from Austria; that Serbia had done nothing to repress it; had permitted criminal machinations of various societies; tolerated and glorified their perpetrators in the public press; and allowed officials to participate therein, contrary to her promise of 1909.<sup>36</sup>

## DEMANDS OF THE ULTIMATUM.

Austria demanded that Serbia publish in her Official Gazette on Sunday, July 26, 1914, and as an order of the day to the Servian army, and in the Army Bulletin, a declaration, prepared by Austria, substantially as follows:<sup>37</sup> Humiliating demands.

That Serbia condemns all such propaganda; regrets that Servian officers have participated therein; and binds herself to—

1. Suppress every publication inciting hatred of Austria;
2. Dissolve all secret societies engaging in, and confiscate their means of, such propaganda;
3. Eliminate all such from public instruction;
4. Remove all officers guilty, whose names Austria reserves the right to communicate to Serbia;
5. "Accept the collaboration in Serbia of representatives of the Austro-Hungarian Government for the suppression of the subversive movement directed against the territorial integrity of the Monarchy"; (in GWB, this reads: "Consent that in Serbia officials of the Imperial and Royal Government co-operate in the suppression of a movement directed against the territorial integrity of the monarch"); Interfere with Servian sovereignty.
6. "Take judicial proceedings against accessories to the plot of the 28th June who are on Servian territory; the delegates of the Austro-Hungarian Government will take part in the investigation relating thereto"; (in GWB, this reads: "Commence a judicial investigation against the participants of the conspiracy of June 28th, who are on Servian territory. Officials, delegated by the Imperial and Royal Government, will participate in the examinations");
7. Arrest Major Tankosic, and Milan Ciganowic, officials, alleged to be implicated in the crime;
8. Prevent the smuggling of arms and explosives across the Austro-Servian frontier;
9. Dismiss guilty army and civil officials;

36. CDD, pp. 3, 415; 2 SDD, 866, 781; BBB, No. 4; ARB, No. 7; FYB, No. 24; ROB, No. 2; SBB, No. 31; GWB. "Original Telegrams, etc."

37. CDD, pp. 3-8; 414-416; 2 SDD, 781; 2 SDD, 866; BBB, No. 4; GWB, Telegrams.

10. Explain alleged interviews by Servian officials, hostile to Austria.
11. Notify Austria without delay of the execution of the foregoing;
12. Reply at the latest by 6 o'clock on Saturday evening, the 25th July.

## MEMORANDUM ANNEXED.

There was a memorandum annexed to this ultimatum stating that the Austrian investigation at Serajevo showed:<sup>38</sup>

Murder  
planned in  
Belgrade.

That the murder was planned in Belgrade by Princip, Gabrinowic, Ciganowic, and Grabez, with the aid of Tankosic; that the six bombs and four pistols used, were obtained by Tankosic and Ciganowic, at the arsenal at Belgrade; that Ciganowic gave instruction in their use in a forest near there to Princip, Gabrinowic, and Grabez; that Ciganowic originated a secret system of transportation, by which, with the help of a Servian frontier captain and a custom officer, an entry into Bosnia was effected.

No part of the evidence was then submitted or tendered to Serbia. The ultimatum is supposed to have been prepared under the general direction of Count Tisza, President of the Ministry of Hungary, by Count Forgach, former Austrian Minister to Servia, then Under Secretary of State for Foreign Affairs; he had been in 1908-9 notoriously connected with the forged papers, on which charges of Servian conspiracies had been based in the Agram and Friedjung trials in 1909-10.<sup>39</sup>

## SURPRISE AT THE CHARACTER OF THE ULTIMATUM.

Ultimatum  
assumed guilt  
of Servia.

The substance if not the complete text of the note, treated as an ultimatum, was immediately published in the European newspapers, before official copies were received by the Great Powers, other than Germany.<sup>40</sup> It will be noted that it assumed guilty knowledge, active participation, and criminal complicity in the propaganda and crime charged, by the Servian Officials, and demanded immediate investigation and suppression, removal of officials named by Austria, and supervision and participation by Austrian officials in such investigation and suppression, in a way inconsistent with the laws and

Demand  
would require  
change in  
laws.

38. CDD, pp. 12-13; 416-417; 2 SDD, 784, 877; BBB, No. 4.  
39. British and German Ideals, (The Round Table, Sept., 1914, March, 1915), p. 107; The Britannica Year-Book, 1913, p. 961. CDD, 396; 2 SDD, 1482; SBB, No. 52; FYB, No. 30.  
40. CDD, 155, 158, 150, 161, 268, 396, 456; 1 SDD, 569, 579, 582; 2 SDD, 1338, 1482; FYB, Nos. 28, 27, 29, 29, 30; ROB, No. 7; ARB, No. 11; SBB, No. 52.

sovereignty of Servia." Sir Edward Grey said he "had never before seen one state address to another independent state a document of so formidable a character."<sup>41</sup> Russian and French officials agreed that it was quite impossible for any independent state, however small, to accept,<sup>42</sup> and Servia "would no longer be master in her own house" if she did.<sup>43</sup> The German Secretary of State admitted she "could not swallow certain of the demands,"<sup>44</sup> and all the representatives of the Great Powers at Vienna, except the German, were surprised and dumbfounded at its contents.<sup>45</sup>

#### GERMANY'S CLAIM.

Diplomatic correspondence among the other powers immediately began,—before Servia replied. And inasmuch as Germany made the first move, it is proper to state Germany's claims first, and then examine them in the light of the actual records. Germany has from the first claimed, and yet claims:

1. The war is a defensive one on her part. In a speech from the balcony of the Royal Palace in Berlin, July 31, 1914, the Kaiser said:

"Envious nations on all sides are forcing us to a justifiable defense. They are forcing the sword into my hands."<sup>46</sup>

And in his speech, at the opening of the Reichstag, August 4, 1914, he said:

"In a war that has been forced upon us, with a clear conscience, and a clean hand we take up the sword."<sup>47</sup>

2. Russia was responsible: The sub-title of the German White Book is: "How Russia and her ruler betrayed Germany's confidence, and thereby made the European war." Russia responsible.

3. She, Germany, did not know, and had nothing to do with, the contents of Austria's ultimatum to Servia. Germany not accessory.

#### GERMANY'S KNOWLEDGE.

Throughout the negotiations German officials constantly told the Russian, English, and French officials that "They had not known beforehand," were "entirely ignorant" of, and "exercised no influence on" the contents of the ultimatum, and there was "no concert," or

Germany claimed no knowledge.

41. CDD, 13, 157, 268, 275, 458; 1 SDD, 578; 2 SDD, 879, 1337, 1350; BBB, No. 5; FYB, No. 26; ROB, No. 6, 25; ARB, No. 14; CDD, 39; 2 SDD, 915; BBB, No. 44.

42. CDD, 13, 165; 1 SDD, 586; 2 SDD, 879; BBB, No. 5; FYB, No. 34.

43. CDD, 164, 281; 1 SDD, 586; 2 SDD, 1358; FYB, No. 33; ROB, No. 41.

44. CDD, 458; 1 SDD, 24; ARB, No. 14.

45. CDD, 23; 2 SDD, 891; BBB, No. 18.

46. CDD, 158, 174, 396; 1 SDD, 579, 602; 2 SDD, 1482; FYB, Nos. 153,

174; SBB, No. 52.

47. Gauss, *German Emperor as shown in his Public Acts*, (Scribner, 1915),

p. 323.

48. *Id.*, p. 324.

"definite understanding" between Germany and Austria as to it."<sup>49</sup> This was false, and after the war was begun the Foreign office admitted that Austria asked Germany for her opinion, and she answered: "We were able to agree with" Austria's estimate of the situation, and assure her "that any action considered necessary," by her "would meet with our approval," and we gave her "a completely free hand in her action against Serbia." "We were perfectly aware that a possible warlike attitude" of Austria "against Serbia might bring Russia in," and "involve us in war, in accordance with our duties as allies."<sup>50</sup> The time and extent of Germany's knowledge of the ultimatum, and the part she had in it will be discussed later on.

Yet gave  
Austria free  
hand.

#### NEGOTIATIONS.

Thursday, July 23, 1914.

As indicated above, *Germany* made the first move. This was in the evening of the day the ultimatum was sent by Austria to Serbia, July 23, and itself indicated Germany had prior knowledge of its contents. It was a communication sent by Germany to England, France, and Russia, and stated that "*the action as well as the demands*," of Austria, are "absolutely justifiable." "It is to be feared that the Servian Government will decline to meet these demands." There would then be nothing left to Austria "but to press their demands," "and, if need be, enforce the same by appeal to military measures, in regard to which the choice of means must be left with Austria." "We earnestly desire the localization of the conflict because any intervention of another Power, owing to the various treaty-alliances, would entail inconceivable consequences."<sup>51</sup> In other words, Austria must have a free hand to crush Serbia, and any intervention by any other power meant European war.

Germany  
forbids  
intervention.

Friday, July 24, 1914.

The ultimatum reached England, France, Belgium, and Russia, about 10 o'clock,—one-third of the time limit already having passed."<sup>52</sup>

49. CDD, pp. 14, 23, 25, 149, 161, 166, 169, 181, 196, 272, 273; 2 SDD, 880, 896; 1 SDD, 562, 563, 582, 588, 592, 609, 640; 2 SDD, 1346, 1347; BBB, Nos. 6, 18, 25; FYB, Nos. 15, 17, 30, 36, 41, 57, 78; ROB, 18, 19, 20, 50. CDD, 406; 2 SDD, 771; GWB, Statement of Foreign Office, Aug. 3, 1914.

51. CDD, pp. 16, 159, 267, 424; 1 SDD, 579; 2 SDD, 798, 888, 1335; BBB, No. 9; FYB, No. 28; ROB, No. 3; GWB, Ex. 1. On July 21, the German Secretary of State insisted that the "question at issue was one for settlement between Serbia and Austria alone, and that there should be no interference from outside in the discussions between these two countries." BBB, No. 2. The German Secretary of State told French Ambassador at Berlin "the note was forcible, and he approved it"; "the question was a domestic one for Austria, and he hopes it will be localized."

52. CDD, pp. 2, 13, 155, 267, 300; 2 SDD, 864, 879; 1 SDD, 578; 2 SDD, 1335; 1 SDD, 300; BBB, Nos. 3, 5; FYB, No. 25; BGB, No. 1; ROB, No. 8.

The English, French, Russian and German officials all considered that it "meant war"; indeed that it was so "drawn as to make war inevitable"; that Austria was determined to "inflict humiliation on Servia," and would "accept no intervention until the blow had been delivered and received full in the face by Servia."<sup>53</sup>

Servia immediately appealed to Russia.<sup>54</sup> Russia immediately declared she "could not remain indifferent," and "could not allow Austria to crush Servia," and the question was not "merely between Servia and Austria, but a European" one.<sup>55</sup>

Russia objects.

Russia urged France and England to stand with her; France agreed to support her in negotiations and as an ally "if necessity arose"; England refused to make such an agreement.<sup>56</sup>

Austria explained to Russia that she desired Servia "publicly to disavow the tendencies directed against" Austria, "suppress them by administrative measures" and "make it possible to satisfy" herself "that these were honestly carried out"; that she "did not aim at any increase of territory," "entertained no thought of conquest," "would not claim Servian territory" and did not "intend to \* \* \* change the balance of powers in Balkans."<sup>57</sup> At the same time she also explained "in strict confidence" to England, that if a satisfactory reply was not received within the time limit, she would break off diplomatic relations with Servia, begin military preparations, and was "absolutely resolved to carry through" her "just demands."<sup>58</sup>

Austria claims conquest of Servia not contemplated

But determined to use force if necessary.

Russia and England immediately made separate and joint requests, directly and indirectly through Germany, to Austria, for an extension of time for the Servian reply, to enable the powers to study the demands of Austria, advise Servia, and "smooth away the difficulties that have arisen."<sup>59</sup>

Extension of time for reply requested.

Germany answered that she "passed on" this request to Austria, but that the Foreign Minister was not at home; that it was probably "too late" to get "the time limit extended"; that Austria "wished to give the Servians a lesson and meant to take military action;" and that Servia "could not swallow certain of the demands."<sup>60</sup> There is no record or indication that Germany made or joined in any request

Request "passed on" by Germany.

53. CDD, pp. 88, 28, 37, 171; 2 SDD, 891, 912, 913; 1 SDD, 595; BBB, Nos. 18, 40, 41; FYB, No. 45.

54. CDD, pp. 267, 389; 2 SDD, 1337, 1470; ROB, No. 6; SBB, No. 37.

55. CDD, pp. 22, 163, 269, 389, 407, 427, 459; 2 SDD, 890; 1 SDD, 584; 2 SDD, 1339, 1470; 2 SDD, 774, 802, 26; BBB, No. 17; FYB, No. 31; ROB, No. 10; SBB, No. 36; GWB, Tel., etc., Ex. 4; ARB, No. 15.

56. CDD, p. 14; 2 SDD, 880; BHR, No. 6.

57. CDD, pp. 460, 426, 15; 1 SDD, 28; 2 SDD, 801, 882; ARB, No. 18; GWB, Ex. 3; BBB, No. 7.

58. CDD, p. 460; 1 SDD, 27; ARB, No. 17.

59. CDD, pp. 18, 19, 126, 167, 171, 499; 2 SDD, 885, 887, 897; 1 SDD, 590, 595, 75; BBB, Nos. 11, 13, 20; FYB, Nos. 38, 45; ARB, Nos. 20, 21.

60. CDD, pp. 22, 170; 2 SDD, 891; 1 SDD, 593; BBB, No. 18; FYB, No. 43.

to Austria to extend the time. Austria, the next day, denied the request for any extension of time.<sup>61</sup>

Saturday, July 25, 1914.

owers urged  
to be  
oncilatory.

*England, France, and Russia*, all urged Serbia to give as conciliatory answer as possible.<sup>62</sup>

ussia offers  
to stand  
side.

*Russia* suggested to Serbia that she appeal to the powers to help her; and if she did so, "Russia would be quite ready to stand aside and leave the question in the hands of England, France, Germany and Italy."<sup>63</sup>

owers  
quest  
ontiers be  
ot crossed.

*England* proposed the "four powers,—England, France, Germany and Italy,—join in asking the Austrian and Russian governments not to cross the Servian frontier, and give time for the four powers acting at Vienna and St. Petersburg to try to arrange matters,"<sup>64</sup> but "unless Germany would propose and participate in such action at Vienna" it would be futile.<sup>65</sup> "No intervention would be tolerated by either Russia or Austria unless it was clearly impartial, and included the allies or friends of both. The co-operation of Germany would, therefore, be essential."<sup>66</sup>

Germany  
refuses to  
in.

*Germany* refused: "the matter was a domestic one for Austria"; "all these *demarches* were too late"; Germany "supports the claims" of Austria against Serbia "as justified," and "could only be guided by her duties as an ally" of Austria; "this question must be localized by virtue of all the powers refraining from intervention"; but said "we are prepared in the event of an Austro-Russia controversy, quite apart from our known duties as allies, to intercede between Russia and Austria jointly with the other powers."<sup>67</sup> It is difficult to understand what this last suggestion means, since she was being asked to intercede because the acts and demands of Austria, had from the first created a controversy with Russia.

ustria and  
ermany  
nderstood  
ar probable.

July 23, the *Austrian* ambassador at London had told Sir Edward Grey, "that all would depend on Russia"; and on July 25 the Austrian Minister of Foreign Affairs told his ambassador at St. Petersburg: "We were, of course aware, when we decided to take serious measures against Serbia, of the possibility that the Servian dispute might develop into a collision with Russia" and assumed that he had already "established a close understanding with" the German ambassador at St. Petersburg, "who will certainly have been enjoined by

61. CDD, pp. 499, 270; 1 SDD, 75; 2 SDD, 1340; ARB, Nos. 20, 21; ROB, Nos. 11, 12.

62. CDD, pp. 19, 21; 2 SDD, 886, 889, 890; BBB, Nos. 12, 15, 16, 17.

63. CDD, pp. 21, 22; 2 SDD, 890; BBB, No. 17.

64. CDD, p. 25; 2 SDD, 895, 896; BBB, Nos. 24, 25.

65. CDD, pp. 17, 18; 2 SDD, 884, 885; BBB, Nos. 10, 11.

66. CDD, pp. 25, 274; 2 SDD, 895, 1349; BBB, No. 24; ROB, No. 22.

67. CDD, pp. 167, 160, 170, 272, 273, 429; 1 SDD, 588, 589, 592, 593; 2 SDD, 1347, 806; FYB, Nos. 36, 37, 41, 43; ROB, Nos. 18, 19; GWB, Ex. 13, (Scott, No. 15).

his government to leave the Russian government no room for doubt that Austria in the event of a conflict with Russia would not stand alone." Austria was therefore at this time certain that Germany had already instructed her ambassador at St. Petersburg to let it be known that she would stand by Austria.<sup>68</sup>

The German chancellor said later "We were perfectly aware that a possible warlike attitude of Austria against Servia, might bring Russia upon the field, and might therefore involve us in a war, in accordance with our duties as allies."<sup>69</sup>

Yet under these circumstances the Austrian Minister for Foreign Affairs telegraphed his ambassadors at St. Petersburg, London, Paris, and Rome, that he had just handed to the German ambassador at Vienna the statement that Austria "cannot conceal their astonishment that their action against Servia was directed against Russia and Russian influence in the Balkans."<sup>70</sup>

Pretended surprise at Russia's interest.

Russia's views as expressed to the British Ambassador at St. Petersburg were: "Austria's action was in reality directed against Russia. She aimed at overthrowing the present *status quo* in the Balkans, and establishing her own hegemony there. He (the Russian Minister for Foreign Affairs), did not believe Germany really wanted war, but her attitude was decided by" England's. If England took a "stand firmly with France and Russia, there would be no war." If England "failed them now, rivers of blood would flow," and she "would in the end be dragged into war."

Russia's position.

The British Ambassador replied "that England could play the role of mediator at Berlin and Vienna to better purpose as friend who, if her counsels of moderation were disregarded, might one day be converted into an ally, than if she were to declare herself Russia's ally at once. His Excellency said that unfortunately Germany was convinced that she could count on" England's neutrality.

England not bound by alliance.

The British Ambassador also said all he "could to impress prudence on the Minister for Foreign Affairs, and warned him that if Russia mobilized, Germany would not be content with mere mobilization, or give Russia time to carry out hers, but would probably declare war at once. His Excellency replied that Russia could not allow Austria to crush Servia and become the predominant power in the Balkans, and, if she feels secure of the support of France, she will face all the risks of war. He assured me once more that he did not wish to precipitate a conflict, but that unless Germany could restrain Austria I could regard the situation as desperate."<sup>71</sup>

68. CDD, pp. 3, 501; 2 SDD, 864; 1 SDD, 81; BBB, No. 3; ARB, No. 26.

69. CDD, p. 406; 2 SDD, 771; GWB, No. 1.

70. CDD, p. 521; 1 SDD, 106; ARB, No. 44.

71. CDD, pp. 21, 22; 2 SDD, 890; BBB, No. 17.

## SERVIAN REPLY.

Servia agrees  
to nearly  
everything.

Servia put in her reply to Austria at 5:45 p. m. It was conciliatory in the extreme;<sup>72</sup> it granted everything possible; while it did not admit official complicity in the propaganda and crimes charged, it promised immediate investigation and punishment of any found guilty, and removal of any such from office; it promised immediate dissolution and suppression of the alleged offending societies, although there was no proof submitted of their guilt; it promised so to amend the constitution and laws, by the legislative bodies then about to meet, that the means of propaganda by such societies and newspapers could be confiscated, as requested; it promised to suppress such propaganda in all public instruction; and while it was not clear as to exactly what was meant by the demand that Austrian officials should be permitted to participate in the investigations and measures of suppression, Servia would do all that her own laws, the rules of international law, and good neighborly acts would permit or require; Tankosic had already been arrested; a warrant had been issued for Ciganowic, but he had not yet been found; with these modifications it promised to make the publications in the official bulletins as requested, and if any of the matters were not satisfactorily answered, it proposed that they be submitted to the Hague Peace Tribunal, or to a conference of the Powers.<sup>73</sup>

Austria's  
demand to  
supervise.

Reply  
declared un-  
satisfactory.

The Austrian Ambassador at Belgrade scarcely stopped to read the reply. He declared it unsatisfactory, and within three quarters of an hour left Belgrade with the whole diplomatic outfit.<sup>74</sup>

Austria's  
objections.

Austria could make very little objection to its tone or contents, but declared it a sham and insincere, and later (July 25) sent to the other powers copies of the reply with her annotations and objections to each article of the reply, and a dossier, containing extensive quotations from alleged confessions, affidavits, and evidence obtained in the investigation made at Serajevo, to support her original charges, but which she had not furnished to Servia.<sup>75</sup> She claimed that since peaceable means "were exhausted," she must "at last appeal to force," "in a fight that was forced" on her, "as a matter of self-defense," and "the Servians had refused the one thing—the co-operation of Austrian

72. Grey said it "went farther than could have been expected," "involved the greatest humiliation to Servia" that he "had ever seen a country undergo," and if Austria did not accept it but "marched into Servia it meant that she was determined to crush Servia at all costs." CDD, pp. 41, 43, 281; 2 SDD, 916, 918, 1359; BBB, Nos. 46, 48; ROB, No. 42. Russia thought "it exceeded all our expectations in its moderation," and could not see how Austria could ask more "unless the Vienna Cabinet is seeking for a pretext for a war with Servia." CDD, 278; 2 SDD, 1355; ROB, No. 85.

73. CDD, pp. 31, 390, 417, 501; 2 SDD, 904, 1477, 785; BBB, No. 89; SBB, No. 41; GWB, Tel., etc.; ARB, Nos. 34, 24.

74. CDD, pp. 24, 890, 391, 273, 279; 2 SDD, 895, 1476, 1477, 1348, 1356; BRB, No. 23; SBB, Nos. 40, 41, 42; ROB, Nos. 21, 37.

75. CDD, pp. 193, 197, 461; 1 SDD, 29, 637, 641; FYB, Nos. 75 (2), 80; CDD, pp. 417, 507; 2 SDD, 785; 1 SDD, 88; GWB, Tel., etc.; ARB, Nos. 34, 19.

officials and police—which would be a real guarantee that in practice the Servians would not carry on their subversive campaign against Austria.”<sup>76</sup> Explanation was to be made at St. Petersburg, “in strict confidence with regard to” point 5,—the participation of Austrian officials in the subversive movement in Serbia—that “this clause was interpolated merely out of practical considerations, and was in no way intended to infringe on the sovereignty of Serbia.”<sup>77</sup>

German officials maintained that “Servian concessions were all a sham,” and “The Servian Note, therefore is entirely a play for time.”<sup>78</sup> The reply was not printed in Germany, in full, until after July 28, nor in Austria; apparently, and was received in France after twenty hours delay, and about the same, in Russia.”<sup>79</sup> Germany takes same view.  
Delay in publishing.

Military preparations began at once. Serbia issued an order for immediate mobilization, Austria claiming this was done at 3 o'clock, about three hours before the Servian reply was put in.<sup>80</sup> On the other hand, as early as July 11, at Budapest cannon and ammunition were being sent by Austria to the Servian frontier;<sup>81</sup> on the 20th military preparations were being made “in the vicinity of the Servian frontier.”<sup>82</sup> On the 22 and 23, “eight army corps” were said “to be ready to start on the campaign”;<sup>83</sup> on the 25th Austria said Serbia could still “bring about friendly solution by unconditional acceptance of our demands” but she would have to reimburse “all costs and damage incurred by us through our military measures,”<sup>84</sup> indicating that she had already taken military steps, probably the mobilization of the eight corps. On the 26th Austria certainly began mobilization, at least in part.<sup>85</sup> Germany began clearing of trees, placing armament, constructing batteries, and strengthening wire entanglements on the French frontier.<sup>86</sup> This was before France had begun.<sup>87</sup> Russia authorized the mobilization of thirteen army corps, to be used if Austria brought armed pressure on Serbia, but only after further notice was given by the Minister of Foreign Affairs, and on the 26th, “not a single horse and not a single reservist had been called up” Austria.  
Germany.  
France.  
Russia.

76. CDD, p. 41; 2 SDD, 918; BBB, No. 48. (Communicated July 27, to Grey.) As to self-defense, it should be remembered that Austria had 52,000,000 population, and Serbia, 4,500,000. However, about half of the population of Austria-Hungary is of Slavic descent, with more or less of Servian sympathies, dominated by about 22,000,000 Germans and Magyars.

77. CDD, p. 503; 1 SDD, 83; ARB, No. 27.

78. CDD, pp. 29, 423; 2 SDD, 901; BBB, No. 32; GWB, Tel. etc.

79. CDD, pp. 282, 193, 506, 178, 270; 1 SDD, 637, 88, 607; 2 SDD, 1361, 1340; ROB, Nos. 46, 18; FYB, Nos. 75 (2), 56.

80. CDD, pp. 391, 500, 29; 2 SDD, 1477; 1 SDD, 76; 2 SDD, 900; SBB, No. 41; ARB, No. 23; BBB, No. 32.

81. CDD, p. 146; 1 SDD, 558; FYB, No. 11.

82. CDD, p. 388; 2 SDD, 1463; SBB, No. 31.

83. CDD, pp. 150, 152; 1 SDD, 564, 566; FYB, Nos. 18, 20.

84. CDD, p. 499; 1 SDD, 75; ARB, No. 20.

85. CDD, 181; 1 SDD, 609; FYB, No. 57.

86. CDD, p. 215; 1 SDD, 663; FYB, No. 106; CDD, p. 223; 1 SDD, 674; FYB, No. 118.

87. CDD, pp. 174, 503; 1 SDD, 602, 84; FYB, No. 50; ARB, No. 28.

but only "measures of preparation in the military districts of Kioff, Odessa, and perhaps Kasan and Moscow" had been taken.

Sunday, July 26, 1914.

Russia  
requests  
Austria to  
exchange  
views.

*Russia* asked *Austria* to exchange private views with her with the object of changing some of the demands of the ultimatum.<sup>88</sup> No answer being received promptly, she then asked *Germany* to advise or request *Austria* to do this.<sup>89</sup> This however was not done, and *Austria* declined *Russia's* request two days later.<sup>90</sup>

Dented.  
French and  
German  
intercession.

The *German* ambassador asked *France* to intercede with *Russia*, claiming that "the prevention of war depends on the decision of *Russia*." *France* replied "that *Russia* was moderate," there was "no doubt as to her moderation," and "*Germany* ought to act at *Vienna*, where her action would certainly be effective, with a view to avoiding military operations leading to the occupation of *Servia*." He refused,—“this could not be reconciled with the position taken up by *Germany* 'that the question concerned only *Austria* and *Servia*.'”<sup>91</sup>

England  
requests  
conference of  
powers.

*England* asked *France*, *Italy*, and *Germany* to meet in *London* to confer in order to preserve the peace.<sup>92</sup> *France*,<sup>93</sup> and *Italy*<sup>94</sup> immediately agreed to this. *Russia* also immediately agreed to this, "or any other proposal of a kind that would bring about a favorable solution of the conflict," if her own "direct conversations," already urged with *Austria* were denied.<sup>95</sup> *Germany* at once refused,—this "would practically amount to a court of arbitration and could not be called together except at the request of *Austria* and *Russia*,"<sup>96</sup> and it was in vain that it was explained the plan "had nothing to do with arbitration, but meant that representatives of the four nations not directly interested should discuss and suggest means for avoiding a dangerous situation."<sup>97</sup>

Germany  
refuses.

Kaiser  
returns.

The *Kaiser*, "to the regret" of the *German* Foreign Office, suddenly returned on his own initiative, to *Berlin*, from *Norway*, where he had gone about three weeks before, ostensibly for his health.<sup>98</sup> It was feared "that His Majesty's sudden return may cause speculation and excitement."

88. CDD, pp. 39, 40, 47, 177, 275; 2 SDD, 914, 916, 925, 1350; 1 SDD, 606; BBB, Nos. 43, 45, 47; FYB, No. 54; ROB, No. 25.

89. CDD, p. 275; 2 SDD, 1351; ROB, No. 28.

90. CDD, pp. 58, 517; 2 SDD, 939; 1 SDD, 101; BBB, No. 74; ARB, No. 30.

91. CDD, pp. 179, 181; 1 SDD, 607, 609; FYB, Nos. 56, 57.

92. CDD, pp. 30, 38, 42, 45, 47, 52; 2 SDD, 902, 913, 918, 920, 924, 925, 931; BBB, Nos. 36, 42, 43, 49, 52, 53, 60.

93. CDD, pp. 38, 47; 2 SDD, 913, 924; BBB, Nos. 42, 52.

94. CDD, p. 43; 2 SDD, 920; BBB, No. 49.

95. CDD, pp. 47, 49; 2 SDD, 925, 927; BBB, Nos. 53, 55.

96. CDD, pp. 38, 52, 515; 2 SDD, 914, 931; 1 SDD, 98; BBB, Nos. 43,

60, 61, 62; ARB, No. 35.

97. CDD, p. 29; 2 SDD, 901; BBB, No. 33; Beck, Ev. in Case, p. 103.

Monday, July 27, 1914.

*France* urged that England, France, Germany, and Italy again request Serbia and Austria not to invade each other's territory, but that more time be given for negotiations.<sup>98</sup> Germany immediately refused, "because that would be to set up a real conference to deal with the affairs of Austria and Russia," and she "could not consent to anything" of the kind.<sup>99</sup> It had already been explained that this assumed "specter of a conference," and "mediation," meant no such thing as Germany urged, but only "friendly advice," "peaceful words," or "friendly conversations."<sup>100</sup>

Powers request no invasion.

Germany refuses to join.

*Russia* asked Germany to urge,—"to press with greater insistence"—Austria to accept *Russia's* suggestion of direct conversations with her "to draw up, by means of a private exchange of views," such "a wording of the Austro-Hungarian demands" as "would be acceptable to both parties."<sup>101</sup> The German Secretary of State offered to telegraph to the German ambassador at Vienna "in this sense," but refused "to advise Austria to give way." On the next day Austria answered she "could no longer recede, nor enter into any discussion about the terms of the Austro-Hungarian note."<sup>102</sup> The Austrian Under Secretary of State informed the Russian ambassador at Vienna, that a skirmish had already taken place on the Danube, begun by the *Servians*.<sup>103</sup> The Russian ambassador then offered to do "all he could to keep the *Servians* quiet pending any discussions that might yet take place" and would advise his government to urge Serbia "to avoid any conflict as long as possible, and to fall back before an Austrian advance." The Secretary promised to "submit this suggestion to the Minister for Foreign Affairs."<sup>104</sup> Nothing came of it.

Germany asked to urge direct conversations.

Austria refuses.

Russia offers to restrain Serbia.

As just stated *Austria* claimed that acts of aggression had occurred by Serbian troops firing on Austrian troops "on the Danube" and "on the frontier," and this was alleged as one of the excuses for declaring war the next day, and refusing England's proposals for preventing "the outbreak of hostilities."<sup>105</sup> It is difficult to believe that little Serbia should deliberately begin an attack on big Austria, just at a time when she knew all her friends were making every effort to prevent war.

Servia's alleged invasion of Austria.

The German Secretary of State said "he was obliged to keep his German secretary not yet read Serbian reply.

98. CDD, pp. 183, 188, 189, 280; 1 SDD, 612, 618, 619; 2 SDD, 1357; FYB, Nos. 61, 68, 70; ROB, No. 39.

99. CDD, pp. 190, 191, 280; 1 SDD, 622; 2 SDD, 1357; FYB, Nos. 73, 74; ROB, No. 39.

100. CDD, pp. 52, 181, 189, 278; 1 SDD, 609, 619; 2 SDD, 931, 1354; BBB, No. 62; FYB, Nos. 59, 70; ROB, No. 34.

101. CDD, p. 279; 2 SDD, 1356; ROB, No. 38.

102. CDD, p. 70; 2 SDD, 954; BBB, No. 93 (1).

103. CDD, p. 50; 2 SDD, 928; BBB, No. 56.

104. CDD, p. 50; 2 SDD, 928; BBB, No. 56.

105. CDD, pp. 50, 518, 519; 2 SDD, 928; 1 SDD, 102, 103; BBB, No. 56; ARB, Nos. 40, 41.

engagements towards Austria," although he had "not yet had time" to read the Servian reply which he had received that morning. The French ambassador entreated him "in the name of humanity to weigh the terms in" his conscience and not to assume a part of the responsibility for the catastrophe which he was "allowing to be prepared."<sup>106</sup>

Germany's  
claim of  
mediation.

The German Chancellor told England that "we have at once started the mediation proposal in Vienna in the sense as desired by Sir Edward Grey," and communicated Russia's desire "for a direct parley with Vienna," and that Austria answers "that after the opening of hostilities by Servia and the subsequent declaration of war, the step appears belated."<sup>107</sup> The published records of neither Germany nor Austria disclose how or when mediation was started by Germany, nor how urgent it was, nor why it became "belated,"—since war was not declared till the next day.

Tuesday, July 28, 1914.

Austria again  
refuses to  
discuss.

Although yesterday *Russia* told Austria that she "was not prepared to give way again as she had \* \* \* during the annexation crisis of 1909,"<sup>108</sup> *Austria* declared "that no discussion could be accepted on basis of Servian note; war would be declared today, (28th); the well-known pacific character of the Emperor, might be accepted as a guarantee that war was both just and inevitable," and "Russia ought not to oppose operations like those impending, which did not aim at territorial aggrandizement, and which could no longer be postponed."<sup>109</sup> The German ambassador at Paris stated "that Austria would respect the integrity of Servia," but as to "whether her independence also would be respected, he gave no assurance."<sup>110</sup> Russia "would not be satisfied with any engagement which Austria might make on these two points" if she attacked Servia,<sup>111</sup> and Sir Edward Grey thought it would be quite possible "without nominally interfering with the independence of Servia or taking away any of her territory to turn her into a sort of a vassal state."<sup>112</sup>

War declared  
on Servia.

War was then declared at noon this day against Servia by Austria, and her army mobilized,<sup>113</sup> if it had not been before.

Summary of  
various efforts  
to preserve  
peace.

Up to this point, five concrete proposals for peace,—a joint request by all the powers, except Germany, for an extension of the time for the Servian reply,—Russia's request for a modification of some of the

106. CDD, p. 191; 1 SDD, 622; FYB, No. 74.  
107. CDD, 429, 430; 2 SDD, 806, 807; GWB, Nos. 14, 15, 16, (Scott, Nos. 16, 17, 18).  
108. CDD, p. 50; 2 SDD, 928; BBB, No. 56.  
109. CDD, p. 52; 2 SDD, 931; BBB, No. 62.  
110. CDD, p. 51; 2 SDD, 930; BBB, No. 59.  
111. CDD, p. 57; 2 SDD, 937; BBB, No. 72.  
112. CDD, p. 69; 2 SDD, 953; BBB, No. 91.  
113. CDD, pp. 43, 51, 54, 515; 2 SDD, 920, 930, 984; 1 SDD, 99; BBB, Nos. 50, 59, 66; ARB, No. 37.

Austrian demands, by a direct exchange of views between herself and Austria,—England's request that frontiers be not crossed by Austria or Servia until time was allowed for further consideration,—England and France's request that conversations by the disinterested powers, including Germany, take place at Vienna and St. Petersburg,—and England's proposal for a joint conference of the same powers at London,—had been made, all coming from England, France, or Russia, and all agreed to by them; but all had been rejected or delayed by Austria and Germany.<sup>114</sup>

The *Kaiser* now took a hand. At 10:45 p. m. he telegraphed the *Kaiser takes* Czar of Russia to this effect: "The inscrupulous agitation which <sup>part.</sup> has been going on for years in Servia" led to the murder; this spirit still dominates that country; all sovereigns have a common interest to see deserved punishment inflicted. "I shall use my entire influence to induce Austria-Hungary to obtain a frank and satisfactory understanding with Russia."<sup>115</sup>

Wednesday, July 29, 1914.

The *German* ambassador informed Russia "in the name of the *Germany's* Chancellor, that Germany has not ceased to exercise a moderating position. influence at Vienna, and that she will continue to do so even after the declaration of war."<sup>116</sup> What this "moderating influence" was is not revealed by the text of any document made public by Germany or Austria. The Chancellor told the British ambassador at Berlin "that events had marched too rapidly to act" on England's "suggestion that the Servian reply might form the basis of discussion"; that on receiving the Servian reply he had "despatched a message to Vienna, in which he explained that, although a certain desire had, in his opinion, been shown in the Servian reply to meet the demands of Austria, he understood entirely that, without some sure guarantees that Servia would carry out in their entirety the demands made on her," Austria "could not rest satisfied in view of their past experience"; "that the hostilities which were about to be undertaken against Servia, had presumably the exclusive object of securing such guarantees," since Austria had "already assured" Russia "that they had no territorial designs." "He advised" Austria, "should this view be correct, to speak openly in this sense" and "such language would, he hoped, eliminate all possible misunderstandings;" and "since he had gone so far in giving advice at Vienna" he hoped England "would realize that he was sincerely doing all in his power to prevent danger of

114. See Sazonof, SDD, p. 101; 2 SDD, 994; BBB, No. 139.

115. CDD, p. 431; 2 SDD, 808, (No. 22-1); GWB, No. 20.

116. CDD, p. 71; 2 SDD, 955; BBB, No. 93 (2).

European complications," and "doing his best to support" England's "efforts in the cause of general peace."<sup>117</sup>

The same day the German Secretary of State reminded the British ambassador at Berlin, that he had said "the other day that he had to be very careful of giving advice to Austria, as any idea that they were being pressed would be likely to cause them to precipitate matters and present a *fait accompli*. This had, in fact, now happened, and he was not sure that his communication of" England's "suggestion that Servia's reply offered a basis for discussion had not hastened declaration of war" by Austria.<sup>118</sup> Truly German "mediation and advice" were not effective.

This same day, too, "The German ambassador came to tell M. Sazonof, (Russian Minister for Foreign Affairs), that if Russia does not stop her military preparations the German army will receive the order to mobilize." Sazonof replied that Russia's mobilization was caused by the "uncompromising attitude of Austria," and "that eight Austro-Hungarian army corps are already mobilized."<sup>119</sup> Sazonof also explained to the German ambassador that none of these military measures "were directed against Germany; neither should they be taken as aggressive measures against Austria-Hungary, their explanation being the mobilization of the greater part of the Austro-Hungarian army."<sup>120</sup>

The French ambassador at St. Petersburg says "The tone in which" the German ambassador "delivered this communication has decided Russia this very night to order the mobilization of thirteen army corps which are to operate against Austria."<sup>121</sup> The German ambassador must have acted with authority, and if so, German *mediation* at Vienna took the shape of *threats* at St. Petersburg, as requested by Austria the day before, to tell Russia—"in a friendly manner," that, —although Russia has given her word of honor that up to then mobilization had not been ordered, but would be in "the military districts which border on Austria-Hungary,—Kieff, Odessa, Moscow, and Kasan," if the Austrian troops "cross the Servian frontier,"—"should these measures be carried out, they would be answered by the most extensive counter measures, not only by the Monarchy but by our Ally, the German Empire."<sup>122</sup>

Russia had the same day, apparently before she knew Austria had declared war, suggested that both direct discussions, and the plans for a conference of the four powers continue;<sup>123</sup> but after Austria refused the further direct exchange of views with Russia, Sazonof said

117. CDD, p. 58; 2 SDD, 939; BBB, No. 75.

118. CDD, p. 59; 2 SDD, 940; BBB, No. 76.

119. CDD, p. 210; 1 SDD, 658; FYB, No. 100.

120. CDD, p. 71; 1 SDD, 955; BBB, No. 93 (2).

121. CDD, p. 210; 1 SDD, 658; FYB, No. 100.

122. CDD, p. 520, 524; 1 SDD, 104; ARB, No. 42, 48.

123. CDD, p. 60; 2 SDD, 941; BBB, No. 78.

that he would agree to any arrangement approved by France, England, and Italy, or the four powers, "provided it was acceptable to Servia; he could not, he said, be more Servian than Servia," and indicated that, if thought advisable, the Austrian ambassador might be called into the proposed conference. Russia favors conference.

The German ambassador at London told Sir Edward Grey that the German Chancellor was "endeavoring to mediate between Vienna and St. Petersburg, and he hopes with good success." Sir Edward replied that Austria had declined this, but that the German government had before said "they were favorable in principle to mediation between Russia and Austria if necessary. They seemed to think that the particular method of conference, consultation or discussion, or even conversations *a quatre* in London too formal a method." He then "urged that the German Government should suggest *any method* by which the influence of the four Powers could be used together to prevent war between Austria and Russia. France agreed, Italy agreed. The whole idea of mediation or mediating influence was ready to be put in operation by *any method* that Germany could suggest; \* \* \* by any method that Germany thought possible if only Germany would 'press the button' in the interests of peace."<sup>124</sup> Germany objects to conference.

The French Prime Minister, Viviani, told the German ambassador at Paris that "if Germany wished for peace she should hasten to give her support to the British proposal for mediation"; the ambassador said "the words 'conference' or 'arbitration' alarmed Austria." "Viviani retorted that it was not a question of words, and that it would be easy to find some other form for mediation." He added that "France sincerely desired peace, but that she was determined at the same time to act in complete harmony with her allies and friends."<sup>125</sup> The unsatisfactory answer to these suggestions of France and England is given tomorrow. The German ambassador at Vienna was still feigning "surprise that the Servian affairs should be of such interest to Russia."<sup>126</sup>

The Czar of Russia, telegraphed the Kaiser at 1 p. m., saying: "I am glad you are back in Germany. \* \* \* I ask you to help me. An ignominious war has been declared against a weak country, and in Russia the indignation which I fully share is tremendous. I fear that very soon I shall be unable to resist the pressure exercised upon me and that I shall be forced to take measures which will lead to war. \* \* \* I urge you in the name of our old friendship to do all in your power to restrain your ally from going too far."<sup>127</sup> I Czar asks for help from Kaiser.

124. CDD, p. 63; 2 SDD, 946; BBB, No. 84 also, CDD, pp. 68, 209, 285; 2 SDD, 951, 1366; 1 SDD, 656; BBB, No. 90; FYB, No. 98; ROB, No. 54.

125. CDD, p. 286; 2 SDD, 1366; ROB, No. 55.

126. CDD, p. 73; 2 SDD, 958; BBB, No. 94.

127. CDD, p. 431; 2 SDD, 809, No. 22, II; GWB, No. 21.

Kaiser's reply  
—Russia to  
remain  
spectator  
while Austria  
goes on.

*Austria* was then bombarding Belgrade, the capital of *Servia*.<sup>128</sup>

The *Kaiser* answered the Czar's telegram at 6:30 p. m., saying: "I share your desire for the conservation of peace. \* \* \* I cannot consider the action of" *Austria* "as an 'ignominious war'"; it is "an attempt to receive full guaranty that the promises of *Servia* are effectively translated into deeds." *Austria* "intended no territorial gain at the expense of *Servia*." \* \* \* It is perfectly possible for *Russia* to remain a spectator in the Austro-Servian war without drawing Europe into the most terrible war it has even seen." "I believe that a direct understanding is possible and desirable between" *Russia* and *Austria*, which "my government endeavors to aid with all possible effort." "Military measures by *Russia* which might be construed as a menace by" *Austria* "would accelerate a calamity which both of us desire to avoid and would undermine my position as mediator," which on your appeal for my aid "I willingly accepted."<sup>129</sup>

It should be noted that the Czar had asked the Kaiser's help to restrain his ally from going too far. What, if anything, the Kaiser did in the line of this request, is not divulged in the published records; but what he did otherwise will soon appear.

Czar asks  
explanation  
of Germany's  
threat.

The *Czar* answered at 8:20 p. m. "Thanks for your telegram which is conciliatory and friendly, whereas the official message presented today by your ambassador to my minister was conveyed in a very different tone. I beg you to explain this divergency. It would be right to give over the Austro-Servian problem to The Hague Tribunal. I trust in your wisdom and friendship."<sup>130</sup> (See the threat of German mobilization, by the German ambassador, above.)

England  
would be  
involved.

It should be noted that Sir Edward Grey today informed the German ambassador at London, that in case Germany and France became involved he "did not wish him to be misled into thinking that we should stand aside,"<sup>131</sup> and at the same time he told France not to be "misled into supposing that we had decided what to do" "in such a contingency."<sup>132</sup>

Thursday, July 30, 1914.

Kaiser's  
answer,  
Russian  
mobilization  
interfere with  
mediation.

The *Kaiser* answered the last telegram of the Czar, at 1 a. m.: *Austria* "has mobilized only against *Servia*, and only part of her army. If *Russia* \* \* \* mobilizes against" *Austria*, "the part of mediator with which you have entrusted me \* \* \* and which I have accepted

128. Baldwin, *The World War*, p. 238; Beck, *Evidence in the Case*, p. 113. (Archer, however, says not till afternoon.)

129. CDD, p. 431; 2 SDD, 809, No. 22, III; GWB, No. 22.

130. CDD, p. 542; 2 SDD, 1029; (This telegram is not printed with the others given in the GWB).

131. CDD, pp. 67, 78; 2 SDD, 950, 965; BBB, Nos. 89, 102.

132. CDD, p. 65; 2 SDD, 948; BBB, No. 87.

upon your express desire, is threatened if not impossible. \* \* \* You have to bear the responsibility for war or peace."<sup>133</sup>

At 2 a. m. the German ambassador at St. Petersburg, "completely broke down on seeing that war was inevitable," "appealed to Sazonof to make some suggestion which he could telegraph to the German government as a last hope."<sup>134</sup> Sazonof replied: "The Emperor Nicholas is so anxious to prevent war that I am going to make a new proposal to you in his name: 'If Austria, recognizing that her dispute with Servia has assumed the character of a question of European interest, declares herself ready to eliminate from her ultimatum the clauses which are damaging to the sovereignty of Servia, Russia undertakes to stop all military preparations.'"<sup>135</sup> This was sent to Berlin at once, and answered by the German Secretary of State, (Von Jagow), "that he considered it impossible for Austria to accept,"<sup>136</sup> or "he found this proposal unacceptable to Austria."<sup>137</sup> "Mediation" by Germany had again failed. At this moment news of proclamation of general mobilization by Austria reached St. Petersburg,<sup>137a</sup> although it seems not to have been declared till 1 a. m. the next morning.<sup>137b</sup>

Russia makes another proposition.

Germany turns this down.

As to *England, France, and Italy's* request of yesterday that Germany suggest *any method* of preserving peace,—the German Secretary of State "to draw up himself the formula for the intervention of the disinterested powers,"—the Secretary of State said: "that to gain time, he had decided to act directly, and that he had asked Austria to tell him the ground on which conversations might be opened with her,"<sup>138</sup> "and was still awaiting to hear from her ally."<sup>139</sup> "No answer had, however, yet been returned." The Chancellor said "he was 'pressing the button' as hard as he could, and that he was not sure whether he had not gone so far in urging moderation at Vienna that matters had been precipitated rather than otherwise."<sup>140</sup> Again the language in which moderation was urged, and the manner of 'pressing the button' are withheld; but the French ambassador, at Vienna, had word from Berlin, that the German ambassador at Vienna "is instructed to speak seriously" to Austria, "against acting in the manner calculated to provoke European war," but unfortunately he "is himself so identified with extreme anti-Russian and anti-Servian

Powers request Germany to suggest any method.

Referred to Vienna.

Germany "pressing the button."

133. CDD, p. 432; 2 SDD, 810, No. 22, V; GWB, No. 23.

134. CDD, p. 75; 2 SDD, 960; BBB, No. 97.

135. CDD, p. 212; 1 SDD, 660; FYB, No. 103. See also, CDD, pp. 75, 91, 288, 291; 2 SDD, 960, 965, 981, 1369, 1373; BBB, Nos. 97, 103, 120; ROB, Nos. 60, 67.

136. CDD, 280; 2 SDD, 1371; ROB No. 63.

137. CDD, p. 216; 1 SDD, 664; FYB, No. 107.

137a. CDD, p. 297; 2 SDD, 1378; ROB, No. 77. See CDD, p. 216; 1 SDD, 664; FYB, No. 107.

137b. CDD, pp. 222; 1 SDD, 672; FYB, No. 115.

138. CDD, p. 216; 1 SDD, 666; FYB, No. 109.

139. CDD, p. 215; 1 SDD, 664; FYB, No. 107.

140. CDD, p. 84; 2 SDD, 972; BBB, No. 107.

feeling in Vienna that he is unlikely to plead the cause of peace with entire sincerity."<sup>140a</sup>

The *Czar* answered the *Kaiser's* morning telegram, at 1:20 p. m., saying: "The military measures now taking form were decided upon five days ago, and for the reason of defence against the preparations of Austria. I hope \* \* \* these measures will not influence in any manner your position as mediator. \* \* \* We need your strong pressure upon Austria so that an understanding can be arrived at with us."<sup>141</sup> It will be noted that the *Kaiser's* telegram of 6:30 the night before took the position that Russia should remain a spectator, while Austria crushed Serbia "in the Austro-Servian war"; but the *Czar* was asking him to put pressure on to restrain his ally from going too far, as he had promised to do in his telegram of the 28th., and which presaged so well. (Unfortunately there is no record of what, if any, effort was made by the *Kaiser* in this direction. It is difficult to believe he would not have been successful if he had made any real effort.)

*Prince Henry* of Prussia telegraphed King George of England telling him of Russia's military preparations, and "that France is making military preparations while we have not taken measures of any kind, but may be obliged to do so at any moment if our neighbors continue their preparations. This would then mean a European war," and proposed that he should use his "influence on France and also on Russia that they should remain neutral. \* \* \* I consider this a certain and, perhaps, the only way of maintaining the peace of Europe."<sup>142</sup> This telegram had the approval of the *Kaiser*. There is no indication of any pressure being put on Austria. She was still to be left free to crush Serbia.

140a. CDD, p. 74; 2 SDD, 959; BBB, No. 95.

(a) NOTE.—Mr. Archer, (*Thirteen Days*, p. 134), and Mr. Headlam, (*Twelve Days*, p. 239), give a copy of a telegram, dated today, July 30, and printed in the *Westminster Gazette* of August 1, purporting to have been sent by the German Chancellor to the German ambassador at Vienna, saying: "We cannot expect Austria to negotiate with Serbia, with which she is at war. The refusal, however, to exchange views with St. Petersburg would be a grave mistake. We are ready to fulfill our duty as an ally. We must, however refuse to be drawn into a world-conflagration through Austria not respecting our advice. Your excellency will express this to Count Berchtold with all emphasis and great seriousness." This telegram is not printed in either the *GWB*, or the *ARB*. Because the French ambassador heard of this proposed "serious" talk, on the same day, Mr. Archer thinks there is some probability of the telegram being genuine; if it is genuine, it is the only bit of evidence, that has come to light in which, the actual words in which Germany put any pressure on Austria, are given. If it accomplished anything, it did no more than induce Austria to open up negotiations with Russia,—only to be overthrown immediately by the *Kaiser's* demobilizing ultimatum. It is very doubtful, to me, if it was genuine, or that it had the effect supposed, in view of the record, given in the text, relating to the *Kaiser's* telegram of 2 o'clock of this day. It seems to me that a more obvious explanation of this belated, unofficially published, telegram is that it was invented and published at a critical time, for English consumption, instead of for Austrian action.

141. CDD, p. 432; 2 SDD, 810, No. 22, VI; *GWB*, No. 28a.

142. CDD, p. 538; 2 SDD, 1023.

*Czar's* answer again urges *Kaiser* to put pressure on Austria.

Germany asks England's aid to induce France and Russia to remain neutral.

*King George* answered: That England was "doing the utmost possible in order to induce Russia and France to postpone further military preparations, provided that Austria declares herself satisfied with the occupation of Belgrade and the neighboring Servian territory as a pledge for a satisfactory settlement of her demands, while at the same time the other countries suspend their preparations for war. I rely on William applying his great influence in order to induce Austria to accept this proposal."<sup>143</sup> It seems that the suggestion that Austria hold Belgrade as a pledge was made July 29, by Sir Edward Grey, to the German ambassador at London, who, today (30th) said the "German government would endeavor to influence Austria, after taking Belgrade and Servian territory in region of frontier, to promise not to advance further, while Powers endeavored to arrange that Servia should give satisfaction sufficient to pacify Austria. Territory would of course be evacuated when Austria was satisfied."<sup>144</sup> The German Secretary of State says "he asked Austro-Hungarian government whether they would be willing to accept mediation" on this basis, but "has up till now received no reply" and "fears Russian mobilization against Austria will have increased difficulties, as Austria, who has as yet only mobilized against Servia, will probably find it necessary also against Russia," and if Russia will agree "to above basis" and "take no steps which might be regarded as an act of aggression against Austria," there is some chance to preserve peace."<sup>145</sup> The German Chancellor says "he had begged Austria to reply to" this proposal, and "had received a reply to the effect that Austrian Minister for Foreign Affairs would take wishes of the Emperor this morning."<sup>146</sup>

King George suggests Austria hold Belgrade as pledge.

Germany agrees to influence Austria.

No reply.

Referred to Austrian Emperor.

Yesterday the *Russian* ambassador at Vienna had requested that direct conversations between Sazonof and the Austrian ambassador at St. Petersburg be resumed, but his request was "flatly refused."<sup>147</sup> Today, however, "it was agreed that *pourparlers* should be resumed" not to modify the Austrian ultimatum to Servia, but only "to discuss what settlement would be compatible with the dignity and prestige" of Russia and Austria. This revived hope, to be dispelled instantly, for just then "news of the German mobilization arrived in Vienna."<sup>148</sup> (It is claimed that this was a mistake, and is considered below.) The instructions given to the Austrian ambassador at St. Petersburg for carrying on the discussion were to make "any explanation he desired with regard to the note—which in any case appears to be outstripped by the outbreak of war; \* \* \* it was never intended to depart in

Discussions to be renewed

But not to change demands.

143. CDD, p. 538; 2 SDD, 1024.

144. CDD, p. 78; 2 SDD, 965; BBB, No. 103.

145. CDD, p. 75; 2 SDD, 961; BBB, No. 98.

146. CDD, p. 87; 2 SDD, 975; BBB, No. 112.

147. CDD, p. 205; 1 SDD, 652; FYB, No. 93.

148. CDD, p. 218; 1 SDD, 662; FYB, No. 104.

any way from the points contained in the note." It was stated in these instructions that Austria "had mobilized exclusively against Servia; against Russia, not a single man,"<sup>149</sup> although in the earlier conversation mobilization in Galicia (which would be toward Russia) was admitted, but stated to "have no aggressive intention and" is only to maintain "the situation as it stands."<sup>150</sup>

France reported that Germany had recalled "the reservists by tens of thousands"; "officers of reserve have been summoned"; "the German army has its outposts on our frontier; the whole 16th army corps from Metz, reinforced by part of the 8th from Treves and Cologne, occupies the frontier from Metz to Luxemburg; the 15th army corps from Strassburg is massed on the frontier." And "although Germany has made her covering dispositions a few hundred meters from the frontier along the whole front from Luxemburg to the Vosges, and has transported her covering troops to their war positions, we have kept our troops ten kilometers (6 miles) from the frontier and forbidden them to approach nearer." "On two occasions yesterday (29th) German patrols penetrated our territory."<sup>151</sup>

#### ENGLAND'S NEUTRALITY.

This, perhaps, is a good place to say something more about England's neutrality,—“perfidious Albion.” As we saw above, (July 25), England was urged from the first to stand solidly with Russia and France,—otherwise Germany and Austria would count on her neutrality,—but refused on the ground that she could mediate with them better as a friend, than as an ally of Russia.<sup>152</sup> On July 24, she postponed the demobilization of her First Fleet, assembled a few days before at Portland, for review. On the 27th this was made public,<sup>153</sup> and the Russian ambassador at London was told it meant nothing more “than diplomatic action was promised.”<sup>154</sup> On the same day the German ambassador was informed by Grey “that our fleet was to have dispersed today, but we had felt unable to let” it do so; “there was no menace in what we had done, but owing to the possibility of an European conflagration, it was impossible for us to disperse our forces at the moment.”<sup>155</sup>

As we saw above, yesterday afternoon, (29th), Grey warned the German ambassador at London that Germany could not count on England's neutrality if all efforts to preserve peace failed.<sup>156</sup> The German

German  
military  
activities.

England  
refuses to  
join France  
and Russia.

Germany  
warned  
England  
would not  
stand aside.

149. CDD, p. 525; 1 SDD, 111; ARB, No. 50.
150. CDD, p. 218; 1 SDD, 662; FYB, No. 104.
151. CDD, pp. 76, 214; 2 SDD, 962; 1 SDD, 663; BBB, No. 99; FYB, No. 106.
152. CDD, pp. 14, 22, 39; 2 SDD, 880, 890, 915; BBB, Nos. 6, 17, 44.
153. CDD, p. 187; 1 SDD, 617; FYB, No. 66.
154. CDD, p. 41; 2 SDD, 917; BBB, No. 47.
155. CDD, p. 43; 2 SDD, 918; BBB, No. 48.
156. CDD, pp. 67, 65; 2 SDD, 950, 948; BBB, Nos. 89, 87.

ambassador sent a telegram to that effect, which reached Berlin late that night.<sup>157</sup> Before it is said to have been delivered, the German Chancellor, who "had just returned from Potsdam," invited the British ambassador to call on him that evening. He said, "should Austria be attacked by Russia a European conflagration might become inevitable owing to Germany's obligation as Austria's ally," and made "the following strong bid for British neutrality," saying that "so far as he was able to judge \* \* \* Great Britain would never stand by and allow France to be crushed; \* \* \* that was not the object at which Germany aimed;" if the "neutrality of Great Britain were certain every assurance would be given to" England that Germany "aimed at no territorial acquisition at the expense of France should" Germany be "victorious in any war that might ensue." When asked "about the French colonies, he said he was unable to give a similar undertaking," but would respect the territory of Holland and Belgium if her adversaries did the same. The British ambassador answered at once that he did not think England would bind herself, but would "desire to retain full liberty."<sup>158</sup> Sir Edward Grey answered this "bid," today, (30th), this way: England "cannot for a moment entertain the Chancellor's proposal" to bind herself "to neutrality on such terms. What he asks us in effect is to engage to stand by while French colonies are taken and France is beaten so long as Germany does not take French territory" in Europe. "Such a proposal is unacceptable, for France \* \* \* could be so crushed as to lose her position as a great Power, and become subordinate to German policy; it would be a disgrace for us to make this bargain with Germany at the expense of France, a disgrace from which the good name of this country would never recover." The Chancellor also asks us to bargain away our interest in the neutrality of Belgium. "We could not entertain that bargain either."<sup>159</sup>

Germany bids for English neutrality.

England refuses to be bound.

Today also the German ambassador asked "why Great Britain was taking military measures both on land and sea" and was told "that these measures had no aggressive character, but the situation was such that each power must be ready."<sup>160</sup>

English mobilization.

Friday, July 31, 1914.

At 1 a. m. today Austria declared mobilization for all men between 19 and 42 years of age.<sup>161</sup>

The Russian ambassador at Vienna reported that Austria is determined not to yield to intervention of powers, and was moving troops

Russia will not yield.

157. CDD, pp. 78, 76; 2 SDD, 965, 961; BBB, Nos. 102, 98.

158. CDD, p. 64; 2 SDD, 947; BBB, No. 85.

159. CDD, p. 77; 2 SDD, 964; BBB, No. 101.

160. CDD, p. 290; 2 SDD, 1372; ROB, No. 65.

161. CDD, p. 222; 1 SDD, 672; FYB, No. 115.

against Russia, as well as against Servia. Russia then ordered general mobilization,<sup>162</sup> early in the day.

Russia's and  
England's  
proposals fail.

Russia's proposition to stop military preparations if Austria would recognize the European character of the Servian question, and allow some modification of the terms of the ultimatum, (which the German Secretary of State, yesterday refused to forward to Austria), and England's proposition that Austria hold Belgrade as a pledge, and stop further military advances, (referred to the Austrian Emperor to be answered this morning), were amalgamated into one to the effect: If Austria will agree to check her advance on Servian territory; recognize the dispute is of European interest; and allow the powers to determine whether Servia can satisfy Austria without impairing her independence and sovereignty, Russia will maintain her waiting attitude.<sup>163</sup> This was sent to Vienna at once, but neither it nor the original proposition seems to have received any consideration.<sup>164</sup>

Germany  
requested  
to urge  
mediation.

On the 29th *England* urged Germany to propose some method by which the four powers could work together to preserve peace, but Russia insisted that Austria suspend military operations against Servia in the meantime, otherwise mediation would drag on and give Austria time to crush Servia. Sir Edward Grey, however, thought that mediation might still be possible, even after Belgrade was seized, if Austria would advance no further, "pending an effort of powers to mediate *between her and Russia*," and that it "was more important than ever that Germany should take up" this matter with Austria.<sup>165</sup> This seems to have been sent through Germany *the next day to Austria*,<sup>166</sup> and reply sent today, (31st), by Austria, but not received till August 1, at London and St. Petersburg, to this effect: "We are quite prepared to entertain the proposal of Sir E. Grey to negotiate *between us and Servia*. The conditions are \* \* \* that our military action against Servia should continue to take its course" and England should induce Russia to bring to a standstill her mobilization against us, and we will cancel our defensive military counter-measures in Galicia.<sup>167</sup> Again German mediation had only had the effect that Austria persisted in her demand that she be allowed a free hand to crush Servia, while negotiations went on.

Further  
proposals by  
England.

Today Sir Edward Grey made two further proposals to Germany:

1. That if Germany would sound Austria, he would sound St. Petersburg, as to whether it would not be possible for the four powers to

162. CDD, p. 87; 2 SDD, 976; BBB, No. 113. Also CDD, p. 527; 1 SDD, 113; ARB, No. 52.

163. CDD, p. 91, 201; 2 SDD, 981, 1373; BBB, No. 120; ROB, No. 67; CDD, pp. 219, 220; 1 SDD, 669, 670; FYB, Nos. 112, 113.

164. CDD, p. 102; 2 SDD, 994; BBB, No. 139.

165. CDD, p. 66; 2 SDD, 949; BBB, No. 88.

166. CDD, p. 75; 2 SDD, 961; BBB, No. 98.

167. CDD, p. 526; 1 SDD, 112; ARB, No. 51.

guarantee Austria full satisfaction against Serbia, without impairing her sovereignty and integrity, on the one hand, and on the other, guaranteeing to Russia that Serbia's sovereignty and integrity, should not be impaired, by Austria. And 2, he said: "If Germany could get any reasonable proposal put forward which made it clear that Germany and Austria were striving to preserve European peace, and that Russia and France would be unreasonable if they rejected it," he "would support it at St. Petersburg and at Paris," and if they would not accept it England "would have nothing more to do with the consequences." The only answer was that "it was impossible for" Germany "to consider any proposal until they had received an answer from Russia to their" ultimatum to demobilize immediately, sent that day and referred to below.<sup>168</sup>

Yet, for some reason, not clearly disclosed by the record, *Austria* today suddenly faced about, and agreed to renew discussions,—and "far from harboring any designs against the integrity of Serbia, was in fact ready to discuss the grounds of her grievances against Serbia with the other Powers";<sup>169</sup> "to discuss with Russia" and "to accept a basis of mediation which is not open to the objection to the formula which Russia originally suggested";<sup>170</sup> "to discuss the substance of the Austrian ultimatum to Serbia."<sup>171</sup> Austria then knew that Russia had ordered general mobilization, early in the day,<sup>172</sup> and had herself taken military measures in Galicia, but these had no aggressive intention, and were not to stop *pourparlers* between Russia and Austria, and from which she hoped "things will quiet down all round."<sup>173</sup>

*Austria agrees to discuss.*

*Russia* immediately accepted this offer, suggested "that the discussions should take place in London with the participation of the Great Powers," and hoped England "would assume the direction of these discussions." "It would be very important that Austria should meanwhile put a stop provisionally to her military action on Servian territory," but this was not made a condition of Russia's acceptance.<sup>174</sup> Here seemed to be a wide-open opportunity for discussion and mediation, with every chance of settlement,—but war "is the game that kings play at"

The *Czar* telegraphed the Kaiser, as to Russian military preparations, which had been so strenuously objected to: "It is technically impossible to discontinue our military preparations which have been made necessary by the Austrian mobilization. \* \* \* As long as the negotiations between Austria and Serbia continue, my troops will undertake no provocative action. I give you my solemn word there—

*Czar's telegram about Russia's military preparations.*

168. CDD, pp. 86, 92; 2 SDD, 974, 982; BBB, Nos. 111, 121.

169. CDD, p. 298; 2 SDD, 1375; ROB, No. 73.

170. CDD, p. 97; 2 SDD, 988; BBB, No. 131.

171. CDD, p. 97; 2 SDD, 989; BBB, No. 133.

172. CDD, p. 527; 1 SDD, 118; ARB, No. 52.

173. CDD, p. 527; 1 SDD, 118; ARB, No. 53.

174. CDD, p. 98; 2 SDD, 989; BBB, No. 133.

on.<sup>175</sup> This assumes Austria had agreed to reopen negotiations, (as she had), and although she had not agreed to stop her military measures, Russia was willing to give assurance that *her* troops would take no action.

Kaiser's  
telegram  
about Russia's  
mobilization.

This telegram of the Czar was crossed by one to the Czar, sent at 2 p. m. by the *Kaiser*, mainly scolding him for mobilizing against Austria, "my ally," whereby "my mediation has become almost illusory," but saying further "I receive reliable news that serious preparations for war are going on on my eastern frontier. The responsibility for the security of my country forces me to measures of defence." \* \* \* "No one threatens the honor and peace of Russia which might well have awaited the success of my mediation." \* \* \* "the peace of Europe can still be preserved by you if Russia decides to discontinue those military preparations which menace Germany and Austria-Hungary."<sup>176</sup> It is clear that since Austria had already agreed to negotiate further, of which the Czar already had knowledge, Austria's change was not due to the Kaiser's "mediation," or the Kaiser was ignorant of his own success, up to 2 o'clock, or prevaricated. I cannot believe he was ignorant. Neither can I believe his Chancellor and Secretary of State were ignorant of Austria's agreement to negotiate further,—although the latter, late this evening, declared that the Kaiser and the Foreign Office "had even up to last night been urging Austria to show willingness to continue discussions,—but Russian mobilization had spoilt everything."<sup>177</sup> This last statement was untrue, for Austria knew Russia had issued order for general mobilization before she agreed to negotiate further,<sup>178</sup> and the claim of the German Secretary of State, made the next day, "that Austria's readiness to discuss was the result of German influence at Vienna," was false.<sup>179</sup>

Germany's  
ultimatum to  
Russia.

Notwithstanding this agreement of Austria, and notwithstanding that "so long as conversation with Austria continued" the Czar "undertook that not a single man should be moved across the frontier,"—all of which must have been known to the Kaiser and his Chancellor,—they sent an ultimatum to Russia, at midnight that night, July 31, to be answered within 12 hours, that is by noon, Saturday, demanding that Russia immediately demobilize her whole army, against both Austria, and Germany,—"if Russia does not stop every measure of war against us and against Austria-Hungary within 12 hours, and notifies us definitely to this effect," mobilization of the German army is bound to follow; "although we have up to this hour made no preparations for mobilization, Russia has mobilized her entire army

175. CDD, p. 411; 2 SDD, 778; GWB, Statement Aug. 3d.

176. CDD, p. 411; 2 SDD, 778; GWB, Statement Aug. 3d.

177. CDD, p. 92; 2 SDD, 982; BBB, No. 121.

178. CDD, p. 527; 1 SDD, 113; ARB, Nos. 52, 53.

179. CDD, p. 100; 2 SDD, 993; BBB, No. 133.

and navy, hence also against us," and we have thereby "been forced for the safety of the country to proclaim the threatening state of war, (*Kriegsgefahrzustand*) which does not yet imply mobilization."<sup>180</sup>

Austria had mobilized at 1 a. m.; Russia, "early in the day," "as a result of the general mobilization of Austria and of the measures for mobilization taken secretly, but continuously, by Germany for the last six days,"<sup>181</sup> as reported by the French ambassador at St. Petersburg, in contradiction of the German Chancellor's statement above. The "state of danger of war," (*Kriegsgefahrzustand-war-danger-state*) is admittedly a German technical term, which after being proclaimed, according to the Chancellor, "Mobilization would follow almost immediately";<sup>182</sup> and according to the German ambassador's statement to the French Minister for Foreign Affairs, the publication of this was impending as early as the 29th, "and under the protection of this screen," after its publication at mid-day today, (31st),<sup>183</sup> Germany "immediately began mobilization in the proper sense of the word."<sup>184</sup>

Mobilization  
by Germany.

The German Chancellor's telegram above to Russia, to demobilize within 12 hours, says that "we have up to this hour made no preparations for mobilization." "At the same time the Imperial (German) ambassador in Paris was instructed to demand from the French Government a declaration within 18 hours whether it would remain neutral in a Russo-German war."<sup>185</sup> The text of the telegram sent to France, (as it appears in the German text of the German White Book), also says "we ourselves have taken no measures towards mobilization." However, the German "only authorized translation" into English, leaves out this statement.

Since Germany's ultimatums to Russia and France, are specifically based on her alleged knowledge of Russia's order for general mobilization, and Russia's order was itself based on the alleged mobilization of Austria and Germany, it is necessary to look into these matters a little more. There is no important difference, as between Austria and Russia,—both understood they were mobilizing against one another, but not with aggressive purposes, while the discussions were going on as agreed. As between Germany and Russia, the documents show much uncertainty.

When Germany sent her "demobilizing ultimatum" to Russia, she undoubtedly had knowledge of Russia's order of mobilization; the hour when the telegram was sent is not given; it however was delivered at midnight;<sup>186</sup> the one sent to France, "at the same time,"

180. CDD, p. 423; 2 SDD, 811, No. 23; GWB, Ex. 24.

181. CDD, p. 223; 1 SDD, 674; FYB, No. 118.

182. CDD, p. 86; 2 SDD, 975; BBB, No. 112.

183. CDD, p. 222; 1 SDD, 673; FYB, No. 117.

184. CDD, p. 251; 1 SDD, 681; FYB, No. 127.

185. CDD, p. 412; 2 SDD, 779; GWB, Statement Aug. 3.

186. CDD, p. 412; 2 SDD, 779; GWB, Statement Aug. 3.

and marked with "utmost speed," was delivered at 7 p. m.<sup>187</sup> The Kaiser said in his telegram to King George, sent in the evening, that his Chancellor had just heard that "Nicholas this *evening* has ordered the mobilization of his entire army and fleet." *Evening*, in Germany, means from 5 to 10 p. m. In the Kaiser's telegram above, sent at 2 p. m., he complains of Russia's *mobilization* against his ally, Austria, not against Germany, but only of "reliable news of serious preparations for war going on on my eastern front." If he had then had knowledge of the mobilization of Russia's "entire army and navy, hence also against us," he would have said so; yet the German authorized English text, (for use in England), of the statement made August 3d by the German Foreign Office, (after war was declared with Russia), says "the mobilization of all the Russian forces obviously directed against us and already ordered in the *afternoon* was in full swing. Notwithstanding, the telegram of the Czar was sent at 2 o'clock that same afternoon." The German text of the same document (for use in Germany), says that Russia mobilized in the *morning*.<sup>188</sup> It seems a reasonable inference that Germany first learned of Russia's *mobilization*, in the *evening*, (after 5 p. m.), instead of *afternoon*, (2 p. m.), or in the *morning*, as stated in the juggled documents. Is there any reason for this juggling? Let us consider.

Germany's ultimatum to Russia to *demobilize*, also said that Russia's mobilization was the cause of Germany's declaring her "state of danger of war," (*Kriegsgefahrzustand*, literally, *war-danger-state*), also. This was decided on at *mid-day* that day,<sup>189</sup> at least two hours before the German authorized English text of the statement of August 3d, says Russia had mobilized, and several hours before the Kaiser knew of it in the *evening*; for German use at least it therefore would be necessary to allege that Russia's mobilization was known in Germany in the *morning*, otherwise Germany's declaration of a "state of danger of war," *could not* be based on the reasons claimed.

It has come to light since that the German proclamation decided on at mid-day, instead of announcing a "state of danger of war," (*Kriegsgefahrzustand*), as told to England, France and Russia, actually proclaimed a "state of war," (*Kriegszustand*,—*war-state*).—(*das Reichsgebiet . . . wird hierdurch in Kriegszustand erklärt*).<sup>190</sup> Just before 2 o'clock, a director of the North German Lloyd, sent to Berlin to ascertain conditions, telegraphed his board, "that the declaration of a state of war (*Kriegszustand*), would at once be made public," and later in the day notified them of "the declaration of the

187. CDD, pp. 88, 222, 527; 2 SDD, 978; 1 SDD, 673, 114; BBB, No. 117; FYB, No. 117; ABB, No. 54.

188. CDD, p. 412; 2 SDD, 779; GWB, Statement, Aug. 8.

189. CDD, p. 222; 1 SDD, 673; FYB, No. 117.

190. Wilson, H. W., *New Light on Germany's Treachery*, Nineteenth Century, June, 1917, pp. 1204-1214.

state of war for the German Empire, owing to the threatening danger of war,"—again not giving Russian mobilization as the reason, but only the threatening danger of war.<sup>191</sup> Now, the difference between *Kriegsgefahrzustand*, (war-danger-state), and *Kriegszustand*, (war-state), is important, for the German mobilization cards, held by German soldiers, direct them automatically to report at once to their headquarters, "upon the existence of a 'state of war,'" but not on the existence of a "state of danger of war." So that by this trick of proclaiming a "state of war" at mid-day, July 31, instead of "a state of danger of war" as reported to the other governments, they were misled, and the German soldiers called to their posts.

But Russia mobilized because she understood Germany was secretly doing so. Did she have any substantial reason to think so? Russian and German mobilization.

In the evening of July 29, an Extraordinary Council was held at Potsdam with the military authorities, under the presidency of the Kaiser, and decided on mobilization, and probably on the invasion of Belgium. About 1 o'clock p. m., July 30, the *Lokal Anzeiger*, a semi-official newspaper, in a special edition, published news of the mobilization of the German army and fleet.<sup>192</sup> This was immediately telegraphed to Russia,<sup>193</sup>—18 to 20 hours before Russian mobilization was ordered. News of the German mobilization was received in Vienna at about the same time.<sup>194</sup>

At 2 o'clock p. m., the German Secretary of State, telephoned the French and Russian ambassadors at Berlin, that "the news of mobilization of the German army and fleet, which has just been announced, is false; that the news sheets had been printed in advance so as to be ready for all eventualities, and that they were put on sale in the afternoon, but that they now have been confiscated."<sup>195</sup> The English and Austrian ambassadors do not seem to have been so notified. The French ambassador at Berlin said he believed "that all the measures for mobilization which can be taken before the general order of mobilization have already been taken here, and that they are anxious here to make us publish our mobilization first, in order to attribute the responsibility to us."<sup>196</sup> The same reasons and remarks would equally apply to Russia.

It has since been learned that the Berlin correspondent for a Vienna newspaper, at 10 o'clock a. m., July 30, telegraphed his paper announcing that German mobilization had been proclaimed, and that he had received this news "from one of the Emperor's staff." So, too, it now appears that four other Berlin newspapers, besides the

191. The Kronprinzessin, (1916), 228 Fed. Rep. 946, 961.

192. CDD, p. 218; 1 SDD, 662; FYB, No. 105.

193. CDD, p. 289; 2 SDD, 1370; ROB, No. 61.

194. CDD, 213; 1 SDD, 661; FYB, No. 104.

195. CDD, p. 289; 2 SDD, 1370; ROB, No. 62.

196. CDD, p. 214; 1 SDD, 662; FYB, No. 105.

*Lokal Anzeiger*, at the same time published special editions announcing mobilization by Germany. It is difficult to believe that all of these could suddenly have conceived such an idea at the same time as to special editions, unless they had been authoritatively so informed.<sup>197</sup> On the same day the 20th French army corps at Nancy intercepted a telephone message between Metz and Strassburg, saying that mobilization began that evening. After the German Secretary of State said this publication was false, the Russian ambassador at Berlin so notified his home government, as above given.

Other facts however make it certain that what was substantially equivalent to mobilization<sup>198</sup> was going on in Germany from July 21, when it was secretly begun by Germany's peculiar preliminary notice.<sup>199</sup> On the 23d, German officers on leave in Basle were ordered to return to Germany.<sup>200</sup> On the 24th, the colonels of the German regiments at Metz, began giving their officers instructions as to the duties of covering troops, only given immediately before mobilization. On the 25th railway stations in Germany were filled with soldiers in uniform, and for the next two days movement by trains of cavalry, artillery, and infantry toward the Belgian frontier was begun. We have already noted above the German activities on the French frontier on this date. On the 26th, the German fleet in Norway was ordered to return to Germany.<sup>201</sup> Reservists were directed to hold themselves at the disposition of the *Kommandatur* at any moment.<sup>202</sup> On the 27th motor car owners in Baden were secretly notified (under penalty of fine) to hold their cars at the disposal of the military authorities within two days after call.<sup>203</sup> Men on leave were ordered to rejoin their regiments; five classes of reservists, (1,250,000 men), were called; these with the peace strength, (over 800,000 men), made more than 2,000,000 men; German officers at Antwerp were secretly directed to report to their regiments; German troops began to deploy on the Luxemburg frontier. On the 28th and 29th uniformed troops were passing through Frankfort from Darmstadt, Cassel and Mayence, which were full of soldiers, and bridges

197. Wilson, H. W., *New Light on Germany's Treachery*, Nineteenth Century, June, 1917, pp. 1204-1214.

198. "Careful usage distinguishes between" *military preparations* and *mobilization*, "though it is hard to draw the line." *Mobilisation* means to make mobile, making ready to move, bringing together men, materials, and all other military paraphernalia for instant use in war, such as filling up the regiments of the first line to full war strength by recalling men on furlough, summoning reservists and forming them into second and third lines, corresponding to the first line, taking over railways, and collecting and equipping all the machinery of transportation and communication,—telegraphs, telephones, motor cars, horses, vehicles, ships, etc., for army service; gathering, forwarding and providing for the distribution of arms, ammunition, uniforms, food supply, etc., necessary before beginning to move to various places of assembly, to be from there *deployed* in battle array.

199. CDD, pp. 134, 149; 1 SDD, 544, 562, FYB, Nos. 3, 15.

200. CDD, p. 182; 1 SDD, 612; FYB, No. 60.

201. CDD, p. 182; 1 SDD, 612; FYB, No. 58.

202. CDD, p. 182; 1 SDD, 611; FYB, No. 59.

203. CDD, p. 182; 1 SDD, 612; FYB, No. 60.

and railways were guarded, under pretext of preparation for autumn manoeuvres;<sup>204</sup> mills in Alsace were directed to stop deliveries to clients and hold supplies for the army; at Strassburg motor-guns were going forward; non-commissioned officers of Bavarian infantry regiments at Metz, in Bavaria on harvest leave, received orders to return immediately, under pretext of change in autumn manoeuvres.<sup>205</sup> Hamburg American and North German Lloyd steamers were directed to embark reservists. On the 29th the whole German covering force were at their posts on the French frontier; 30 military trains passed between Metz and Treves, and the 18th army corps was concentrated at Frankfurt. In Bavaria and Wurtemberg army corps were marching west. The *Ersatz*.—reservists,—(1,500,000 men), received notices which automatically called them up on the proclamation of a state of war. This was the condition of things when the War Council met that evening. We have already noted the German military activities on the French frontier on the 30th. By that time an army of more than 3,500,000 men was practically mobilized by Germany. Yet the Chancellor, about 5 p. m., July 31, telegraphs Russia saying "we have up to this hour made no preparations for mobilization."<sup>206</sup> On the other hand Sazonof said on the 30th, "that absolute proof was in the possession of Russian Government that Germany was making military and naval preparations against Russia—more particularly in the direction of the Gulf of Finland."<sup>207</sup> Which was probably correct?<sup>208</sup>

But without any reference as to who mobilized first, the Kaiser, after knowing that Austria had expressed a willingness to negotiate with Russia, or with all the Powers, and after he had the Czar's promise on his honor that his army would take no action as long as negotiations continued, sent this ultimatum to Russia, to be answered within 12 hours demanding that she *demobilize* her whole army, against both Austria and Germany, and without any promise or suggestion that he or Austria would do the same. The reason why demobilization against Austria as well as against Germany was demanded, was, as stated by the Secretary of State, Von Jagow, "in order to prevent Russia from saying all her mobilization was only directed against Austria."<sup>209</sup>

Kaiser's  
responsibility

204. CDD, p. 202; SDD, 648; FYB, No. 88.

205. CDD, p. 202; 1 SDD, 649; FYB, No. 89.

206. CDD, p. 483 2 SDD, 811, No. 23; GWB, No. 24.

207. CDD, p. 75; 2 SDD, 980; BBB, No. 97.

208. The facts concerning mobilization by Germany above given for which no specific reference is given, are from Wilson's article in the Nineteenth Century, for June, 1917, New Light on Germany's Treachery, pp. 1204-1214.

209. CDD, p. 92; 2 SDD, 982; BBB, No. 121.

Saturday, August 1, 1914.

ar asks for  
arantee  
om Kaiser.

The *Ozar* answered the Kaiser, (not within the 12 hour limit, but at 2 o'clock), saying "I comprehend that you are forced to mobilize, but I should like to have from you the same guaranty which I have given you, viz., that these measures do not mean war and that we shall continue to negotiate for the welfare of our two countries, and the universal peace which is so dear to our hearts."<sup>210</sup>

refused to  
consider.

The *Kaiser* answered: "I have shown yesterday to your government the way (that is, by immediate demobilization) through which alone war may yet be averted. Although I asked for a reply by today noon, no telegram from my ambassador has reached me with the reply of your government. I therefore have been forced to mobilize my army. An immediate and unmistakable reply of your government is the sole way to avoid endless misery. Until I receive this reply I am unable, to my great grief, to enter upon the subject of your telegram."<sup>211</sup>

Germany  
declares war  
Russia.

At 12:52 p. m. the German Chancellor notified the German ambassador at St. Petersburg that "If the Russian Government gives no satisfactory reply to our demand," you "will please transmit this afternoon 5 o'clock (mid-European time), the following: \* \* \* Russia having refused to comply with this demand, and having shown by this refusal that her action was directed against Germany. \* \* \* I have the honor \* \* \* to inform your Excellency as follows:—His Majesty the Emperor, my august Sovereign, in the name of the German Empire accepts the challenge, and considers himself at war with Russia."<sup>212</sup> This was delivered at 7:10 p. m.<sup>213</sup>

England  
for  
Germany to  
by her  
nd.

*England* again urged that since Austria and Russia were willing to discuss matters, and if "Germany did not want war on her own account" she "should hold her hand and continue to work for a peaceful settlement." The Secretary of State replied that "Austria's readiness to discuss was the result of German influence at Vienna, and, had not Russia mobilized all would have been well. But Russia by abstaining from answering Germany's demand that she should demobilize, had caused Germany to mobilize also. Russia had said that her mobilization did not necessarily imply war, and that she could perfectly well remain mobilized for months without making war. This was not the case with Germany. She had the speed and Russia had the numbers, and the safety of the German Empire forbade that Germany should allow Russia time to bring up masses of troops from all parts of her wide dominions."<sup>214</sup>

210. CDD, p. 413; 2 SDD, 779; GWB, Statement Aug. 3.

211. CDD, 413; 2 SDD, 770; GWB, Statement Aug. 3.

212. CDD, pp. 294, 433; 2 SDD, 1377, 811, No. 25; ROB, No. 76; GWB, No. 26.

213. Same references.

214. CDD, p. 100; 2 SDD, 993; BBB, No. 138.

According to the statement of the German Foreign office to the German people, August 3, 1914, in the afternoon of August 1, before the delivery of the order declaring war "Russian troops crossed our frontier and marched into German territory. Thus Russia began war against us."<sup>215</sup> This same document also says: "As the time limit given to Russia had expired without the receipt of a reply to our inquiry, H. M., the Kaiser ordered the mobilization of the entire German army and navy on August 1, at 5 p. m." In the document declaring war Russian mobilization, not Russian invasion, is given as the cause of the declaration of war.

Germany claims Russia invaded her

Germany has constantly claimed that she did not mobilize until August 1, at 5 p. m., Saturday, and after Russia had mobilized against her and had invaded her territory, and her war was, therefore, one of defence only, as claimed in the Kaiser's speech referred to in the early part of this paper. As to invasion of Germany by Russia: this is inherently improbable; Russia did not want war with Germany; she and Austria were about to discuss, instead of fight; although she had given orders to mobilize before Germany claims to have given her order, yet Germany had the speed, and Russia the numbers when she got them together, but since she certainly had not yet accomplished this, why should she attack Germany before she was ready? Besides, the Czar had given his word of honor to the Kaiser that not a man should cross the line while negotiations continued. We have already discussed what Germany had been doing in the way of mobilizing for the past 15 days.

Germany claims war is defensive on

As to these matters of invasion and mobilization it is well to remember a few bits of history. As we have seen the Triple Alliance, is one of defense, and not of offense. Austria and Italy were bound by it to stand by Germany only in case she were attacked by Russia. So, too, by the constitution of the German Empire, the Kaiser has no right to declare an offensive war, but only a defensive one.<sup>216</sup> As we have seen, this war was declared by the Kaiser, and not by the Bundesrat; it had to be made a defensive one therefore. At the beginning of the Franco-Prussian war in 1870, it was said that "On July 19, at noon, a body of French soldiers crossed the Prussian frontier at Saarbrücken, and were driven back by the Uhlans. This was the first hostile act committed before the formal declaration of war." Subsequent histories make no mention of this. It had a special purpose to subserve then: Bavaria was then bound only by a defensive alliance to Prussia, and was wavering in her support, in the discussions in her legislative body, when this "act of hostility" was re-

Triple Alliance and defensive war

Constitution and offensive war.

Similar conditions Franco-Prussian war

215. CDD, p. 413; 2 SDD, 780; GWE, Statement August 3.

216. "For a declaration of war in the name of the Empire, the consent of the Bundesrat is required, unless an attack is made upon the federal territory or its coasts,"—IV, Art. 11, Dodd, Modern Constitutions, Vol. 1, p. 381.

ported at the proper time, and with the desired result."<sup>217</sup> So, here, Austria declared war on Russia, (August 6th), because she "has seen fit to open hostilities against Germany."<sup>218</sup> On August 1, however, Italy declared that this war was not a defensive one, but an aggressive war on the part of Austria, and she was not obliged under the terms of the Triple Alliance to take part in it.<sup>219</sup> Just as in the beginning of the Franco-Prussian war hostile acts of France were counted on as above noted, so when Germany declared war on France, at 6:45 p. m., August 3, 1914, she claimed France was guilty of "a certain number of flagrantly hostile acts committed on German territory," specifying: "yesterday morning (August 2,) *eighty* French officers in Prussian uniform had attempted to cross the German frontier in *twelve* motor cars at Walbeck"; and French military aviators have "attempted to destroy buildings near Wesel," and "thrown bombs on the railway near Carlsruhe, and Nuremburg." Now the 80 French officers in their 12 motor cars, would not only have to cross Belgium, but also 30 miles of Holland, to reach Walbeck; it is strange that they were seen by no one but Germans in their violation of the neutral territory of Belgium and Holland, on their 140 mile trip, and have not been heard from since; so, too, Wesel, is 150 miles from the French frontier, 30 of which is also across Holland; Carlsruhe is 85 miles from France, and Nuremburg 200; these early aviators have made no report,—they seem still to be in the air. The German officer in command at Nuremburg has publicly denied that any bombing of the railway at that time occurred; and when the German government delivered her ultimatum to Belgium, August 2, she did not, and could not, allege any violation of Belgian territory by France, but only that she had "reliable information" of "the intention of France to march through Belgian territory against Germany." With these claims in mind, which were so far from the truth, the allegation that Russia began the war against Germany, does not carry much weight. It and the rest of them served their purpose, just as Bismarck's "modified" Ems telegram in 1870 did.

The Kaiser, therefore, with full knowledge of the willingness of Austria and Russia to negotiate further, with the assurance that Russia would take no military action while the negotiations continued, and would stop military preparations if he would do the same, deliberately refused, declared war, and blocked all possibility of peace.

And this is "How Russia and her ruler betrayed Germany's confidence and thereby made the European war."

217. Wilson, H. W., *New Light on Germany's Treachery*, Nineteenth Century, June, 1917, pp. 1204-1214.

218. CDD, pp. 298, 529; 2 SDD, 1881; 1 SDD, 117; FYB, No. 79; ARB, No. 59.

219. CDD, pp. 106, 228; 2 SDD, 1002; 1 SDD, 679; BBB, No. 152; FYB, No. 124.

Sunday, August 2, 1914.

German troops violated French territory in at least 11 different places,—at one, Jonchery, six miles from the frontier, Lieutenant Mayer of the 5th mounted Jagers, of the 144 army corps blew out the brains of a French corporal, and was himself killed, and two German troopers were taken prisoner;<sup>220</sup> also invaded Luxemburg, and Germany demanded that permission be given by Belgium to Germany for her troops to cross Belgian territory to invade France. Invasion of France.

#### INVASION OF BELGIUM.

By the settlement at the Congress of Vienna, in 1815, Holland and Belgium were joined together under the name of The Netherlands. Neutrality of Belgium. This was not a happy union, and in 1830, Belgium declared her independence of Holland; Great Britain, Austria, France, Prussia, and Russia, by *treaty with her in 1831*, recognized her independence "as a perpetually neutral state," and "guaranteed perpetual neutrality." Holland then objected, but in 1839, joined these powers in a treaty Treaties. by which Belgium was to "form an independent and perpetually neutral state" placed "under the guarantee of" these powers,—this guarantee being considered from the beginning to be "to uphold, not collectively but severally and individually, the integrity of the treaty," and not jointly, as in the treaty of 1867, concerning the neutrality of Luxemburg.<sup>221</sup>

By *treaty of 1870*, during the Franco-Prussian war, Prussia, (practically on behalf of the North German Confederation, with which France was technically at war), declared her intention "to respect the neutrality of Belgium, so long as the same shall be respected by France" and England agreed to cooperate with Prussia, in case France violated that neutrality. This treaty between Prussia and England was to last during the continuance of the war and for 12 months after the ratification of peace, but "without impairing or invalidating the conditions of" the treaty of 1839, being only "subsidiary and accessory to it."<sup>222</sup> A precisely similar treaty was entered into by England and France at the same time.

In 1911, the German Chancellor had declared to Belgium "that Confirmatio

220. CDD, pp. 234, 236; 1 SDD, 686, 687, 689; FYB, Nos. 136, 139. The German Chancellor says this was against express orders; GWB, Speech, Aug. 4, CDD, p. 438.

221. Mowat, R. B., *Select Treaties*, Oxford Pamphlets, Introduction, and pp. 37, 42. Arts. 9 and 10 of Treaty of 1831, and Art. 7 of Treaty of 1839.

222. Mowat, *Select Treaties*, p. 39. Prof. Burgess, argues that Germany is not a party to either of these treaties, since they were not made with either her or the North German Confederation. He also says that Germany was not a party to the Hague Convention of 1907. As to this last he is mistaken; as to the first, the original treaty of 1839 was made with his Majesty the "King of Prussia," the present Kaiser, is still King of Prussia, and by virtue of this, is Emperor of Germany. Besides the German Chancellor did not think of such a flimsy excuse.

Germany had no intention of violating Belgian neutrality;" in 1913, the German Secretary of State had publically declared to the Budget Commission of the Reichstag, that "Belgian neutrality is provided for by International Conventions, and Germany is determined to respect those conventions." On July 31, 1914, the German Minister to Belgium, upon specific inquiry, told the Belgian Minister for Foreign Affairs, that he knew of these declarations of the Chancellor and Secretary of State, and "the sentiments expressed at that time had not changed." And again on August 2, (the day that Germany later in the day delivered her ultimatum to Belgium), the German Minister to Belgium confirmed "the feelings of security" which Belgium "had the right to entertain towards" her "eastern neighbors."<sup>223</sup>

Belgium's  
duty of self  
defense.

By the treaty of 1839, Belgium was bound to do all she could, to defend her own neutrality, in case it was threatened or invaded. The Hague Conference, 1907, declared the territory of neutral powers is inviolable, and belligerents are forbidden to move troops across it, and resistance is not an hostile act.<sup>224</sup> Germany had signed this declaration.

July 24, 1914, Belgium mobilized her small army, and put her forts in a state of defense, and on the 29th "strengthened her peace footing" in order to perform her duty to protect her own neutrality.<sup>225</sup>

France agrees  
to respect  
Belgian  
neutrality.

July 31, the French Minister to Belgium, as soon as he learned of "the state of war in Germany" with Russia, immediately declared to the Belgian Foreign Minister, "that no incursion of French troops into Belgium will take place, even if considerable forces are massed upon the frontiers of your country." The same day England asked Belgium if she would "do her utmost to maintain her neutrality," and also asked France and Germany if they would respect Belgian neutrality, if violated by no other power.<sup>226</sup>

France answered "Yes," at once, and on the same day so informed the Belgian Minister for Foreign Affairs.<sup>227</sup> The German Secretary of State answered "that he must consult the Emperor and the Chancellor before he could possibly answer," and for fear of disclosing part "of their plan of campaign," he was "very doubtful whether they would return any answer at all."<sup>228</sup> The next day, Saturday, August 1, England insisted on an answer from Germany, saying "if there were a violation of the neutrality of Belgium by one combatant while the other

Germany  
does not.

223. CDD, p. 305; 1 SDD, 366; BGB, No. 12.

224. Convention V, Chapter I, Articles 1, 2, 10. Germany's claims that Belgium had violated her duty of neutrality by understanding with England prior to the war are too flimsy to need comment.

225. CDD, pp. 300, 303; 1 SDD, 356, 364; BGB, Nos. 2, 8.

226. CDD, pp. 87, 307; 2 SDD, 976, 977; 1 SDD, 368; BBB, Nos. 114, 115; BGB, No. 13.

227. CDD, pp. 94, 227, 307; 2 SDD, 985; 1 SDD, 367, 369; BBB, No. 125; FYB, No. 122; BGB, No. 15.

228. CDD, pp. 92, 227; 2 SDD, 983; 1 SDD, 568; BBB, No. 92; FYB, No. 123.

respected it, it would be extremely difficult to restrain public feeling in this country."<sup>229</sup> At 1:05 p. m. France answered Germany's ultimatum to her of the night before, "that France would do that which her interest dictated."<sup>230</sup> "The Kaiser ordered the mobilization of the entire German Army and Navy on August 1st at 5 p. m.," according to the Chancellor,—“the first day of mobilization to be 2d August,” according to the newspaper reports.<sup>231</sup> (But see above.) France mobilized at 3:40 p. m.<sup>232</sup>

Sunday, August 2, at 7 p. m. *Germany* presented an ultimatum marked “very confidential” to Belgium, saying: “Reliable information has been received by” Germany “that French forces intend to march \* \* \* through Belgian territory against Germany,” who fears “that Belgium \* \* \* will be unable without assistance to repel so considerable a French invasion with sufficient prospect of success to \* \* \* guarantee against danger to Germany. It is essential for the self-defense of Germany that she should anticipate such hostile attack.” And would regret “if Belgium regarded as an act of hostility” the “fact that the measures of Germany’s opponents force Germany, for her own protection, to enter Belgian territory.” If this was permitted Germany proposed “at the conclusion of peace, to guarantee the possessions and independence of the Belgian Kingdom in full;” “to evacuate Belgian territory at the conclusion of peace;” “to purchase all necessaries for her troops against a cash payment, and to pay an indemnity for any damage that may have been caused by German troops.” Should Belgium oppose \* \* \* Germany will, to her regret, be compelled to consider Belgium as an enemy,” and “the eventual adjustment of relations between the two states must be left to the decision of arms.”<sup>233</sup> “A time limit of twelve hours was allowed in which to reply.”<sup>234</sup> At 1:30 a. m., the German Minister to Belgium, asked to see the Secretary General to the Belgian Minister for Foreign Affairs to tell him “he had been instructed by his Government to inform the Belgian Government that French dirigibles had thrown bombs, and a French cavalry patrol had crossed the frontier in violation of international law.” When asked, Where? he replied, “in Germany.” The Secretary then said “he could not understand the object of the communication,”—when the German Minister answered that “these acts, which were contrary to international law, were calculated to lead to the supposition that other acts, contrary to international law, would be com-

Germany sends ultimatum to Belgium demanding permission to march across to France.

229. CDD, p. 98; 2 SDD, 984; BBB, No. 123.  
 230. CDD, pp. 484, 223; 2 SDD, 818, No. 26; 1 SDD, 678; GWB, Ex. 26; FYB, No. 117.  
 231. CDD, pp. 418, 103, 232; 2 SDD, 780, 997; 1 SDD, 784; GWB, Statement Aug. 3; BBB, No. 142; FYB, No. 180.  
 232. CDD, p. 99; 2 SDD, 991; BBB, No. 186.  
 233. CDD, pp. 309, 312; 1 SDD, 371, 375; BGB, Nos. 20, 23.  
 234. CDD, p. 312; 1 SDD, 375; BGB, No. 23.

mitted by France."<sup>235</sup> Six and a half hours earlier the German Government could only allege "we knew that France was ready to invade Belgium"<sup>236</sup> according to the Chancellor, and make that, "the lying pretext that Belgian neutrality was threatened by us,"<sup>237</sup> according to Viviani, as the basis of the ultimatum to Belgium.

At 7 a. m. Monday, August 3, *Belgium replied*: "This note has made a deep and painful impression upon the Belgian Government. The intentions attributed to France by Germany" contradict France's formal declarations; if "Belgian neutrality should be violated by France," Belgium "would offer the most vigorous resistance." "The treaties of 1839" and 1870, "vouch for the independence and neutrality of Belgium under the guarantee of the Powers" including Prussia. "Belgium has always been faithful to her international obligations." "The attack upon her independence" which Germany threatens "constitutes a flagrant violation of international law. No strategic interest justifies such a violation of law." If Belgium "were to accept the proposals submitted," she "would sacrifice the honor of the nation and betray" her "duty towards Europe," and she is "firmly resolved to repel, by all the means in" her power, "every attack upon" her rights.<sup>238</sup> Caesar said more than nineteen hundred years ago, "Of all the Gauls, the Belgae are the bravest."<sup>239</sup>

*France* immediately offered Belgium "the support of five French army corps," but she said she was "making no appeal at present to the guarantee of the powers."<sup>240</sup> At 6:45 p. m., Germany declared war on France, because of the alleged acts of aggression above noted.<sup>241</sup> Belgium appealed to England for diplomatic intervention on her behalf, and England immediately protested "against this violation of a treaty to which Germany is a party in common with" her, and requested an assurance from Germany that she would respect the neutrality of Belgium.<sup>242</sup>

On Tuesday, August 4, *England* told Belgium that if Germany applied pressure to induce her to depart from neutrality, she would expect her to resist by any means in her power, and she stood ready to join France and Russia "for the purpose of resisting use of force by Germany against" her.<sup>243</sup> At 6 a. m., *Germany* declared war on Belgium, "in consequence of the refusal" by her "to entertain the

235. CDD, p. 311; 1 SDD, 373; BGB, No. 21.

236. CDD, p. 317; 1 SDD, 381; BGB, No. 35.

237. CDD, p. 259; 1 SDD, 715; FYB, No. 159.

238. CDD, pp. 311, 323; 1 SDD, 373, 389; BGB, Nos. 22, 44.

239. The area of Belgium is 11,373 sq. mi.; population, 7,500,000; Germany, area, 208,000 sq. mi.; population, 67,000,000. In 1914, Belgium's war strength was 222,000, and Germany's, 5,200,000.

240. CDD, pp. 106, 313; 2 SDD, 1001; 1 SDD, 375; BBB, No. 151; BGB, No. 24.

241. CDD, pp. 240, 241; 1 SDD, 693, 694; FYB, Nos. 147, 148.

242. CDD, pp. 107, 313; 2 SDD, 1002; 1 SDD, 376; BBB, No. 153; BGB, No. 25.

243. CDD, p. 108; 2 SDD, 1003; BBB, No. 155.

well-intentioned proposals" of Germany,<sup>244</sup> and immediately proceeded to invade her territory.<sup>245</sup>

The reasons given by the German Chancellor were: "We were in a state of legitimate defence, and necessity knows no law. Our troops have occupied Luxemburg and have perhaps already entered Belgium. This is contrary to \* \* \* international law. France has \* \* \* declared \* \* \* that she was prepared to respect the neutrality of Belgium so long as it was respected by her adversary. But we knew that France was ready to invade Belgium. France could wait; we could not. A French attack upon our flank \* \* \* might have been fatal. We were, therefore, compelled to ride roughshod over the legitimate protests" of Luxemburg and Belgium. "For the wrongs which we are thus doing, we will make reparation as soon as our military object is attained." "He who is menaced as we are and is fighting for his highest possession can only consider how he is to hack his way through."<sup>246</sup> The German Secretary of State gave as reasons that Germany "had to advance into France by the quickest and easiest way,"<sup>247</sup> and the Kaiser (in his suppressed cablegram to President Wilson, August 10, 1914), because of "strategical grounds, news having been received that France was already preparing to enter Belgium." (In the original, the word *knowledge*, was crossed out, and *news*, written instead.)<sup>248</sup>

Reasons  
given—  
necessity.

Belgium appealed "to Great Britain, France, and Russia to co-operate as guaranteeing powers in the defence of her territory."<sup>249</sup> Germany sent word to England that she "will, under no pretense whatever, annex Belgian territory"; the "German army could not be exposed to French attack across Belgium, which was planned according to absolutely unimpeachable information."<sup>250</sup>

Belgium  
appeals to  
powers.

England again requested Germany to give assurances by midnight to respect the neutrality of Belgium, and proceed no further with their violation of "her frontier," and if not given then England would "feel bound to take all steps in" her "power to uphold the neutrality of Belgium and the observance of a treaty to which Germany is as much a party as" England.<sup>251</sup>

England's  
ultimatum to  
Germany.

That afternoon, the German Secretary of State answered "No," saying the German troops had crossed the frontier in the morning, and "Belgian neutrality had been already violated. \* \* \* the safety of

Germany's  
answer,—  
only "a scrap  
of paper."

244. CDD, p. 314; 1 SDD, 377; BGB, No. 27.

245. CDD, pp. 109, 316, 321; 2 SDD, 1005; 1 SDD, 379, 386; BBB, No. 158; BGB, Nos. 30, 40.

246. CDD, pp. 317, 438; 1 SDD, 381; BGB, No. 35; GWB, Appendix, Chancellor's Speech to the Reichstag, August 4, 1914.

247. CDD, p. 110; 2 SDD, 1006; BBB, No. 160.

248. Ambassador Gerard's "My Four Years in Germany," p. 438; Phil. Public Ledger, Aug. 5, 1917.

249. CDD, p. 321; 1 SDD, 386; BGB, No. 40.

250. CDD, p. 109; 2 SDD, 1004; BBB, No. 157.

251. CDD, p. 109, 110; 2 SDD, 1005; BBB, Nos. 159, 160.

the Empire rendered it absolutely necessary that the Imperial troops should advance through Belgium." And that evening the Chancellor said that the step taken by England "was terrible to a degree; just for a word—'neutrality,' a word which in war time had so often been disregarded—just for a scrap of paper Great Britain was going to make war on a kindred nation who desired nothing better than to be friends with her."<sup>252</sup>

England's  
reply.

England replied "for the honor of Great Britain, she should keep her solemn engagement to do her utmost to defend Belgium's neutrality if attacked,"<sup>253</sup> and "Germany, having rejected the British proposals" declared "that a state of war existed between the two countries as from 11 o'clock" that night.<sup>254</sup>

#### ENGLAND'S RESPONSIBILITY.

Germany  
first blames  
Russia.

The statement of the *German* Foreign Office, August 3, 1914, says: "Russia began the war against us," and the German Chancellor the next day said to the Reichstag, "Russia has set fire to the building. We are at war with Russia and France,—a war that has been forced upon us."

Then  
England.

In the Chancellor's speech, four months later, December 2, he declares that while the outer responsibility for the war is on Russia, the inner, lies upon England, for she gave Russia to understand that she placed herself at the side of Russia and France; she could have made it impossible, had she declared she would not suffer a European war to grow out of the Austro-Servian dispute; France would then have energetically warned Russia against military action; "then the way would have been clear for our mediatory action."

Russia's efforts  
to preserve  
peace.

Russia's efforts toward peace have already been set forth in detail; from the first she declared she could not stand by and see Servia crushed, deprived of her integrity and independence, and become a vassal of Austria; she held to this throughout, yet in the beginning, (July 26) she told Austria that her claims were legitimate if she had no other aim than the protection of her territory against the intrigues of Servian anarchists; but her procedure was indefensible, and Sazanof said: "Take back your ultimatum, modify its form, and I will guarantee you the result";<sup>255</sup> and at the end he accurately summed up his efforts, saying he "was completely weary of the ceaseless endeavors he had made to avoid war. No suggestions held out to him had been refused. He had accepted the proposal for a conference of four, for mediation by Great Britain and Italy, for direct conversations between Austria and Russia; but Germany and Austria-

252. CDD, pp. 110, 111; 2 SDD, 1006, 1007; BBB, No. 160.

253. CDD, p. 111; 2 SDD, 1007; BBB, No. 160.

254. CDD, p. 322; 1 SDD, 387; BGB, No. 41.

255. CDD, p. 177; 1 SDD, 606; FYB, No. 54.

Hungary had either rendered these attempts for peace ineffective by evasive replies or had refused them altogether."<sup>256</sup>

France from the beginning told Russia that she would support her France's position. in negotiations, and as an ally in case of necessity; a course she adhered to throughout, yet supporting every effort toward peace made by any of the parties, counseling moderation at all times, and on the 29th July, at the critical time, inducing Russia to suspend for the time being every military measure that could offer Germany any pretext for general mobilization.<sup>257</sup>

We have already seen above how, from the very first, (July 24), England's position. England, although strongly urged, refused to make any engagement to support Russia and France by force of arms.<sup>258</sup> On July 25, Russia and Germany were informed that while the conflict continued between Austria and Servia alone, British interests were only indirectly affected, but Austrian mobilization might lead to Russian mobilization; then the interests of all the powers would be involved, in which case England "reserved to herself full liberty of action," and refused then to bring "conciliatory pressure" on Russia, at Germany's request.<sup>259</sup>

On the 27th, the German and Austrian ambassadors in London allowed it to be understood that they were sure England would remain neutral if a conflict broke out,<sup>260</sup> but the German ambassador was immediately informed otherwise.<sup>261</sup> On the 29th Sir Edward Grey made still clearer England's position to France and Germany. He told the French ambassador that in a "Balkan quarrel, and in a struggle for supremacy between Teuton and Slav we should not feel called to intervene; should other issues be raised, and Germany and France became involved, so that the questions became one of the hegemony of Europe, we should then decide what it was necessary for us to do";<sup>262</sup> and to the German ambassador he said: "There would be no question of our intervening if Germany was not involved, or even if France was not involved"; but if British interests required us to intervene, we must intervene at once, and the decision would have to be very rapid.<sup>263</sup> At the same time he told both that they should not be misled by these statements,—France into relying upon England's support, or Germany into thinking she would stand aside.

We have already told how England declined Germany's bid for her neutrality, made this day, the 29th. On the 30th the French Presi- Refuses Germany's bid for neutrality.

256. CDD, p. 101; 2 SDD, 994; BBB, No. 139.

257. CDD, p. 211; 1 SDD, 659; FYB, No. 102.

258. CDD, pp. 14, 163; 2 SDD, 880; 1 SDD, 584; BBB, No. 14; FYB, No. 163.

259. CDD, p. 273; 2 SDD, 1348; ROB, No. 20.

260. CDD, p. 185; 1 SDD, 616; FYB, No. 63.

261. CDD, p. 43; 2 SDD, 918; also, CDD, p. 41; 2 SDD, 917; BBB, Nos. 47, 48; also, CDD, p. 282; 2 SDD, 1269; ROB, No. 42.

262. CDD, p. 65; 2 SDD, 948; BBB, No. 87.

263. CDD, p. 67; 2 SDD, 950; BBB, No. 88.

dent again urged England to agree to come to her aid in case of a war between France and Germany, saying "there would then be no war, for Germany would at once modify her attitude," but England declined.<sup>264</sup> The next day in answer to a direct question by the German ambassador, whether Great Britain would remain neutral, he was told that if the conflict became general, and especially if France were involved, England would not be able to remain neutral, but would be brought in; at the same time France was informed that England could not then guarantee intervention on behalf of France, "but it was necessary to wait for the situation to develop."<sup>265</sup> Although England had several times refused to agree to stand solidly with Russia and France, Russia today thanked her for "the firm attitude" and "firm and friendly tone" adopted by her.<sup>266</sup> On the 2d of August, however, subject to the approval of Parliament, Sir Edward Grey assured France that "if the German fleet comes into the Channel or through the North Sea to undertake hostile operations against French coasts or shipping, the British fleet will give all the protection in its power," but this "did not bind" England to go to war with Germany unless she took the action stated.<sup>267</sup>

Such is the Record of England; she gave neither Russia, France, nor Germany to understand that she placed herself at the side of Russia and France; the only way she could have made the war impossible, in the way the Chancellor stated, was to have told Russia and France that Austria and Germany were to have a free hand, under any circumstances.

Only in such a sense can England be said to be responsible, at least so far as Germany and Austria are concerned. But further as to the Chancellor's charge against England. The German documents themselves exonerate England from this charge. In the statement of the German Government sent to King George, August 1, 1914, that "The proposals made by the German Government at Vienna were conceived entirely on the lines suggested by Great Britain, and the German Government recommended them at Vienna for their serious consideration."<sup>268</sup> And the official statement of the German Foreign Office, August 3, 1914, says "Shoulder to shoulder with England we labored incessantly and supported every proposal in Vienna" offering the possibility of peace.<sup>269</sup> These relate to efforts claimed to have been made at Vienna,—and admit, by implication at least, none were made there by Germany except such as England suggested.

But as to Russia, the Chancellor himself says in his speech, August

- German  
Chancellor  
gave England  
credit.
- 264. CDD, p. 76; 2 SDD, 962; BBB, No. 99.
  - 265. CDD, pp. 217, 543; 1 SDD, 667; 2 SDD, 1029; FYB, No. 110; Telegrams, etc., V. I.
  - 266. CDD, pp. 91, 291; 2 SDD, 981, 1374; BBB, No. 120; ROB, No. 69.
  - 267. CDD, p. 105; 2 SDD, 999; BBB, No. 148.
  - 268. CDD, p. 536; 2 SDD, 1020; Telegrams, etc., I, 1.
  - 269. CDD, p. 410; 2 SDD, 777; GWE, Statement, Aug. 3.

4, 1914: "Great Britain, warmly supported by us, tried to mediate between Vienna and *St. Petersburg*." And the declaration of war by Germany against Russia, August 1, says "the German Emperor had undertaken, *in concert with Great Britain*, the part of mediator between the Cabinets of Vienna and *St. Petersburg*." Here again Great Britain's efforts at mediation with Russia, are admitted. "Our (Germany's) mediatory action," therefore was not blocked, by England, either at Vienna or *St. Petersburg*.

*But what of German mediation?* That it was being continuously exercised, is constantly asserted, over and over again, by Kaiser, Chancellor, and Secretary of State. So much so that "The lady doth protest too much, methinks." The terms of not a single peace proposal by Germany is divulged by the published records. There is nothing but assertion, and demand of "localization," "no intervention," or "demobilization," under threat of mobilization by Austria or Germany, revealed by the documents, as the method of German mediation. It was not only sterile of peaceful results, but had exactly the opposite effect. Its absolute failure was attributed by Germany to the unapproachably haughty touchiness of Austria, or the "mobilization," or "invasion," by Servia, Russia, or France, bent on attacking their peace-loving neighbors, Austria and Germany.

German mediation.

#### FACTS NOT IN THE RECORD.

Such is the result of the published official records, with the few additional facts referred to in the notes. There are, also, some other matters, not in the official records, yet fully established, that are necessary to complete the story. Two of these are: Further facts as to Germany's prior knowledge of the Servian ultimatum, and the Potsdam meeting.

Matters not in the record.

*As to the first:* Herr von Jagow, the German Secretary of State, on July 21st, before the ultimatum was delivered, told the Russian and French representatives at Berlin, "That he was in complete ignorance of the contents of that note."<sup>270</sup> The next day he repeated "he knew nothing of the text."<sup>271</sup> On the 24th, the day after the note was delivered to Servia, when asked by the French Ambassador at Berlin, "if the Berlin Cabinet had really been entirely ignorant of Austria's requirements before they were communicated to Belgrade," said, "that that was so."<sup>272</sup> On the 25th, in answer to a similar inquiry by the English representative at Berlin, "he received so clear reply in the negative that he was not able to carry the matter further."<sup>273</sup> On the same day the German ambassador at London read

Germany's hand in Austrian ultimatum.

270. CDD, p. 149; 1 SDD, 562; FYB, No. 15.

271. CDD, p. 149; 1 SDD, 563; FYB, No. 17.

272. CDD, p. 161; 1 SDD, 562; FYB, No. 30.

273. CDD, p. 169; 1 SDD, 592; FYB, No. 41.

a telegram to Sir Edward Grey, from the German Foreign Office saying "that his government had not known beforehand, and had had no more than other Powers to do with the stiff terms of the Austrian note to Servia."<sup>274</sup> England immediately sent this word to Russia.<sup>275</sup> At the same time the German ambassador at Paris said "that there had been no 'concert' between Austria and Germany in connection with the Austrian note, and that the German Government had no knowledge of this note when it was communicated to them at the same time as to the other Powers, though they had approved it subsequently."<sup>276</sup> And on this same day, 25th July, the German ambassador to Russia, handed a verbal note to the Russian Minister for Foreign Affairs, saying: "We learn from an authoritative source that the news spread by certain newspapers to the effect that the action of Austria at Belgrade, was instigated by Germany, is absolutely false. The German Government had no knowledge of the text of the Austrian note before it was presented, and exercised no influence upon its contents. A threatening attitude is wrongly attributed to Germany."<sup>277</sup> July 26th, the German ambassador at Paris again "affirmed that Germany had been ignorant of the text of the Austrian note, and had only approved it after its delivery."<sup>278</sup> This was reiterated the 28th.<sup>279</sup> And finally in the Official Statement August 3, of the German Foreign Office, it is said "We guaranteed Austria a completely free hand, but have not participated in her preparations."<sup>280</sup>

Prior  
knowledge.

On the other hand, on July 23d, the President of the Bavarian Council told the French Minister at Munich that "the contents of the Austrian note were known to him."<sup>281</sup> On the 24th Sazonof, the Russian Minister for Foreign Affairs declared that Austria "would never have taken such action unless Germany had first been 'consulted,'"<sup>282</sup> and this was the universal belief, despite the German denials. On the 30th the British ambassador at Vienna reports that "Although I am not able to verify it, I have private information that the German Ambassador (here) knew the text of the ultimatum before it was despatched and telegraphed it to the German Emperor."<sup>283</sup> Such is what the record shows.

Von Jagow  
had  
knowledge.

But since this was published *other facts* have become known: On September 3, 1916, Count Tisza, President of the Hungarian Ministry, in answer to the question if he had not talked over the Austrian note to Servia with German officials, said: "I do not care to answer

274. CDD, p. 25; 2 SDD, 896; BBB, No. 25.  
 275. CDD, p. 278; 2 SDD, 1348; ROB, No. 20.  
 276. CDD, p. 186; 1 SDD, 588; FYB, No. 36.  
 277. CDD, p. 272; 2 SDD, 1347; ROB, No. 18.  
 278. CDD, p. 181; 1 SDD, 610; FYB, No. 57.  
 279. CDD, p. 196; 1 SDD, 640; FYB, No. 78.  
 280. CDD, p. 406; 2 SDD, 773.  
 281. CDD, p. 153; 1 SDD, 567; FYB, No. 21.  
 282. CDD, p. 14; 2 SDD, 880; BBB, No. 6.  
 283. CDD, p. 74; 2 SDD, 959; BBB, No. 95.

that question directly. But you can draw your own conclusions. If a person has a very close and strong friend, and if he is about to take a step of the most terrible gravity, does he, or does he not, discuss the whole matter with his friend, and finally tell his friend what he has decided to do?" Three weeks later, Von Jagow, himself, the German Secretary of State, when asked a question, based on what Tisza had divulged, said: "I did not have a hand in preparing the note. \* \* \* I saw it at 8 o'clock the night before it was presented in Belgrade, where it was presented at 10 o'clock the next morning. That was too late to do anything about it. All we had done was to assure Austria that we would back her up in an attempt to punish Serbia."<sup>284</sup> (The note reached Belgrade at 10 o'clock, but was not actually delivered until 6 p. m.)

Again, July 14, eight days before the note was delivered, Baron Wangenheim, German ambassador at Constantinople, told the Italian ambassador there that "the Austrian note to Serbia would be such as to render war inevitable."<sup>285</sup>

And again: In the middle of July, 1914, Dr. Muhlon then a director of Krupp's Works, at Elsen, was told by Dr. Helfferich, then a director of the Deutsche Bank, in Berlin, and later Vice-Chancellor of Germany, the following: "The Austrians have just been with the Kaiser. In a week's time Vienna will send a very severe ultimatum to Servia with a very short interval for the answer. \* \* \* The ultimatum will contain certain demands such as punishment of a number of officers, dissolution of political associations, criminal investigation by Austrian officials, and in fact a whole series of definite satisfactions will be demanded at once; otherwise Austria will declare war on Serbia; \* \* \* the Kaiser expressed his decided approval of this procedure, and regarded a conflict with Serbia as an internal affair between these two countries, in which he would permit no other state to interfere. If Russia mobilized, he would mobilize, and mobilization meant immediate war." When this was reported to Herr Krupp von Bohlen, he confirmed it and added, "the Kaiser had told him he would declare war immediately if Russia mobilized, and that this time people would see that he would not turn about. \* \* \* No one would be able to accuse him of indecision." On the day the Austrian ultimatum appeared Dr. Helfferich told Dr. Muhlon, "the Kaiser had gone on his northern cruise as a blind, but was remaining close at hand and keeping in close touch." The German Government's reply to Dr. Muhlon's statement is that "the author is in a 'pathological state,' and consequently not responsible."<sup>286</sup>

The Kaiser knew and approved.

<sup>284</sup>. W. C. Bullitt, interview with Tisza and Von Jagow, Phil. Pub. Ledger, Aug. 6, 1917.

<sup>285</sup>. Speech of M. Barilal, of the Italian Government, at Naples, Sept. 24, 1916.—Facts about the War, No. 22, p. 8.

<sup>286</sup>. Facts about the War, No. 82, May, 1918; Germany's Confession, U. S. Committee on Public Information.

The Kaiser  
fixed the time  
limit.

*But still further:* Dr. E. J. Dillon, Special Correspondent from south-eastern Europe for the London Daily Telegraph, and an authority on European Affairs, says as to the Austrian ultimatum: "Nothing was kept back from the politicians of the Wilhelmsrasse but the rough draft of the note. The German ambassador, von Tschirscky, however, was one of the few who were initiated into that mystery; \* \* \* (he) saw the proposed text of the ultimatum; \* \* \* it was he who telegraphed the wording of the document to the Kaiser. \* \* \* I advance this statement with a full knowledge of what actually took place. This communication was made not merely for the purpose of keeping the War Lord informed, \* \* \* but also to secure his express assent to exact terms of an official paper which was intended to bring about hostilities between Austria and Serbia, and might \* \* \* precipitate a European conflict; \* \* \* the rough draft did not obtain (his) unconditional approval; (he) suggested a certain amendment, and fixed a time limit \* \* \* to leave no room for evasion or loophole for escape; \* \* \* the verbal amendments,—to sharpen the terms—were embodied in the ultimatum, \* \* \* and duly presented."<sup>287</sup>

Potsdam  
meeting kept  
secret

*Now as to the Potsdam meeting.* September 14, 1914, a Berlin correspondent telegraphed to his Rotterdam paper that a Crown Council was held at Potsdam, July 5, 1914. July 19, 1917, Herr Haase, German minority Socialist leader, in the Reichstag, said: "What the peace resolution says of the origin of the war is not tenable in fact or in history. \* \* \* We do not forget the conference at Berlin on July 5, 1914." This was published only in the *Leipziger Volkszeitung*, the next morning; the allusion to this meeting was suppressed in the reports of the Reichstag proceedings, published in other German papers. No member of the German Government, then challenged the statement.

Participants.

With these clues, a *London Times* reporter, July 27, 1917, ascertained that there was such a meeting held, a week after the murder of the Archduke, Franz Ferdinand. "Those who took part in the conference were: the Emperor, his Chancellor von Bethemann-Hollweg, Admiral Tirpitz, General Falkenhayen, Mr. Von Strumm, Count Berchtold, Count Tisza, the Austrian and Hungarian Premiers, General Conrad von Hoetzendorf, the chief of the Austro-Hungarian staff. They discussed and settled the chief points of the ultimatum that Austria was to send, eighteen days later, to Serbia;" it was recognized that Russia would object; that war would result; but it was definitely decided to accept this; the date of mobilization was probably fixed; the Kaiser left for Norway to throw dust in the eyes of France and Russia. Two months before, at a secret meeting of the Budget Committee of the Reichstag, a Socialist member, Cohn, challenged the minister to deny

287. "A scrap of Paper," by E. J. Dillon, 1914, pp. 75-77.

these facts, but he did not do so. August 1, 1917, the German Government issued an official denial, and authorized the Wolff Bureau to declare "these statements and all the details were pure invention; that neither on the day named, nor any other day in July, did such a conference occur either with or without the Emperor; and that the Government was completely ignorant of the contents of the ultimatum before its despatch."<sup>288</sup>

Denied by German government.

But since then a fuller account of this meeting has been given by Mr. Morgenthau, American Ambassador at Constantinople, who had it first hand from Baron Wangenheim, German Ambassador at Constantinople, who attended the meeting at the summons of the Kaiser. Mr. Morgenthau says: "This meeting took place at Potsdam, July 5, (1914); the Kaiser presided; nearly all the ambassadors attended; Wangenheim came to tell of Turkey. \* \* \* Moltke, chief of staff, was there representing the army, and Admiral von Tirpitz spoke for the navy. The great bankers, railroad directors and captains of German industry, all of whom were as necessary to German war preparations as the army itself, also attended. Wangenheim now told me that the Kaiser solemnly put the question to each man in turn. Was he ready for war? All replied, "Yes," except the financiers. They said that they must have two weeks to sell their foreign securities and to make loans. This conference \* \* \* decided to give the bankers time to readjust their finances for the coming war, and then the several members went quietly back to their work or started on vacations. The Kaiser went to Norway in his yacht. Von Bethmann-Hollweg left for a rest, and Wangenheim returned to Constantinople. In telling me about this conference Wangenheim, of course, admitted that Germany precipitated the war. I think he was rather proud of the whole performance. \* \* \* The conspiracy that has caused this greatest of human tragedies was hatched by the Kaiser and his imperial crew at the Potsdam conference of July 5, 1914."<sup>289</sup>

Morgenthau's first hand information.

Kaiser directs.

All these matters have been lately more fully confirmed if possible, by the publication of *Prince Lichnowsky's* "My London Mission, 1912-1914," prepared by him in August, 1916, "for his family archives," but copies of which were furnished to a few friends, including the head of the Hamburg-American Line, the head of the Deutsche Bank, the editor of the Berliner Tageblatt, and to an officer connected with the German General Staff. Through a breach of confidence his statement was made public. Prince Lichnowsky was German Ambassador to England, for the two years immediately preceding the commencement of the war. Among many other things he says: "I learned that at the decisive conversation at Potsdam on July 5, the inquiry

Confirmation by German ambassador to England.

<sup>288</sup>. Phil. Pub. Ledger, Monday, August 6, 1917, p. 2. Facts about the War. No. 66, August, 1917.

<sup>289</sup>. World's Work, June, 1918, pp. 170-171.

addressed to us by Vienna found absolute assent among all the persons in authority; indeed they added that there would be no harm if war with Russia were to result. So at any rate it is stated in the Austrian protocol which Count Mensdorf, Austrian Ambassador, received in London. Soon after Herr von Jagow was in Vienna to discuss everything with Count Berchtold, Austrian Foreign Minister." He summarizes the whole action of Germany, as follows:

Lichnowsky's  
summary.

"As appears from all official publications, without the facts being controverted by our own White Book, which, owing to its poverty and gaps, constitutes a grave self-accusation:

1. "We encouraged Count Berchtold to attack Serbia, although no German interest was involved, and the danger of a world war must have been known to us,—whether we knew the text of the ultimatum is a question of complete indifference."

2. "In the days before July 23, and July 30, 1914, when M. Sazonof emphatically declared that Russia could not tolerate an attack on Serbia, we rejected the British proposals of mediation, although Serbia, under Russian and British pressure, had accepted almost the whole ultimatum, and although an agreement about the two points in question could easily have been reached, and Count Berchtold was even ready to satisfy himself with the Servian reply."

3. "On July 30, when Count Berchtold wanted to give way, we, without Austria having been attacked, replied to Russia's mere mobilization by sending an ultimatum to St. Petersburg. and on July 31, we declared war on the Russians, although the Czar had pledged his word that as long as negotiations continued, not a man should march,—so that we deliberately destroyed the possibility of a peaceful settlement."

"In view of these indisputable facts, it is not surprising that the whole civilized world outside Germany attributes to us the sole guilt for the World War."<sup>290</sup>

Germany's  
bad faith.

And Dr. Dernburg, formerly the Kaiser's personal representative in this country, correctly characterizes Germany's bad faith when he says: "Our lies are coarse and improbable, our ambiguity is pitiful simplicity, and our intrigues are without salt and without grace. The history of this war proves this by a hundred examples."<sup>291</sup>

Truly this war was "made in Germany" and nowhere else.

*Austria*, urged by Germany, precipitated the conflict for the domination of the Balkans,—but at the last moment drew back; *Germany* then forced the war for her own schemes of world dominion; *Russia* honorably came to the rescue of a weak, kindred nation, but at the

<sup>290</sup>. New York Times, April 21, 1918.

<sup>291</sup>. In Deutsche Politik, September 28, 1917; War Cyclopeda, p. 112.

same time had important interests of her own to preserve and protect; *France*, valiant and glorious, rushed to the defence of her rights and her liberty; *England*, for her own honor, and likewise to preserve her own interests, nobly came to the aid of Belgium, France and Russia.

*But Belgium?*—with her little army, and her forts without modern equipment,—in the eighteen days of her agony from Liège to Mons, she stemmed the onrush of the Hun deluge, until France could revise her plan of defense, and the little army of English heroes could reach the battle line. Belgium! disinterested Belgium! In the dim watches of the night, from Sunday 7 p. m. to Monday 7 a. m., August 2-3, 1914,—with her peace, her prosperity, her safety, and her life itself, on one side, and her honor on the other,—chose honor, and the cross,—and was crucified,—even as Christ of old,—that the rest of us might be free. Henceforth her hallowed land shall be the Gethsemane of the Nations,—and all the world looks forward, with hope, for the day of her resurrection.

*And what of Germany?* "Belshazzar, the king, made a great feast to a thousand of his lords . . . . They drank wine and praised the gods of gold, and of silver, of brass, of iron, of wood, and of stone. . . . And fingers of a man's hand wrote upon the plaster of the wall of the king's palace: *Mene*; God hath numbered thy kingdom and finished it. *Tekel*; Thou art weighed in the balances and found wanting." "Babylon the great is fallen, is fallen, and is become the habitation of devils and the hold of every foul spirit and a cage for every unclean and hateful bird . . . . her sins have reached unto heaven and God hath remembered her iniquities. . . . Therefore shall her plagues come in one day, death and mourning and famine . . . . and the merchants of the earth shall weep and mourn over her; for no man buyeth their merchandise any more . . . . cinnamon and odors and ointments and frankincense and wine and oil and fine flour and wheat and beasts and sheep and horses and chariots and slaves and the souls of men." Dan. V, 1-27; Rev. XVIII, 2 et seq.



## WINNING THE WAR.<sup>1</sup>

BY PROFESSOR EDWIN C. GODDARD, LAW DEPARTMENT, UNIVERSITY OF MICHIGAN, ANN ARBOR.

Mr. Toastmaster, Gentlemen of the Michigan Bar:

"We must win the war." This is your slogan and mine. What does it mean? How shall it be done? In answering I speak not as the general planning the military campaign, not as the statesman meeting the political and monetary problems of the war, more tremendous than ever confronted the world, not merely as the citizen seeking to do his part in this fearful crisis, but particularly as a lawyer seeking to know and to do what he by the position and opportunity due to his profession can accomplish for the right settlement of the issues on which this war is joined.

And first let us recognize that the issues of the war are not what they were in 1914. It is no longer a question of whether Austria by her brutal ultimatum to little Serbia is responsible, or Germany by her curt and evidently predetermined refusal to join the nations in seeking a peaceful settlement of the disputes, or Russia by her clumsy mobilization of forces to protect her against possible lightning strokes Germany was in position to deliver against her, or England by her determination not to permit the neutrality of Belgium to be outraged, or her desire to thwart the world ambitions of a dangerous rival. All those things have been swallowed up in the issue Germany has raised of a brutal, savage, inhuman, but very efficient, autocracy running amuck among the nations of the earth. The issues even of 1917, that led us after three years of watchful waiting to see that we could no longer be interested spectators of the conflagration while the world burned, are now swallowed up in this greater issue of once and for all ending the danger to every nation of the earth from this cruel, unscrupulous, unmoral autocracy, that has left the trail of blood, fire and destruction unequalled in history wherever its armies have been able to work their will.

To win this war we must, of course, give men, millions of men, of the very flower of our manhood, give men without stint, and now, so that the bloodshed may end as soon as possible. Every day we slow up means more lives sacrificed, more men crippled, towns and cities and women and children blasted.

To win the war we must give money, without stint, in quantity that

1. An address delivered at the meeting of the Michigan State Bar Association at Kalamazoo, June 28, 1918.

numbs the imagination, measured in figures of which we do not, can not, realize the meaning. These things I assume, and pass to an even more important giving, and to certain concomitant and resulting situations and conduct on our part.

To win the war we must give *The Spirit of the Nation*. We must do this because only so will we be willing to pay the price, we must do it because only so will our armies beat the enemy in the field. God is not always with the heaviest battalions. There is a telepathy that tells our men three thousand miles away the courage and steadfastness of the people at home. There are new words, and new meanings for many words, because of this war, and a resulting new vocabulary. One word that is practically new is *morale*. As is the spirit of our people at home so is the courage of our soldiers in the trenches. It is of this incorporeal, undefinable spirit, and particularly of certain causes and effects acting upon it that I wish to speak briefly.

Camp Custer is courageous. My lawyer friend at my side (Lieutenant Murphy) has given up a fine law practice and offers his services, risks his life gladly and without any hesitation. Last week I had a letter from a young man with a Teutonic name, the son of the pastor of a so-called "German" church in Michigan, himself the eldest of a family of thirteen children and a splendid full *American*. He wrote from Camp Custer, where he is a private: "I love my country. I give myself for her gladly, if need be I will die for her." I met another young lawyer, recently graduated from the University, now at Camp Custer in Lieutenant's uniform. He was eager to get "across," and certain when the Americans got into the line the German lines would begin to crack. The spirit of our boys in khaki is true and altogether splendid.

But what of the spirit of the nation? These days just past have given many encouraging signs of which I have not time to speak. The war is for this nation a fire of purification, it is welding us into one people. But our spirit has not been tried yet. We think we have had wheatless days and meatless days and sweetless days, but we have all had plenty of all kinds of things we need to eat and to wear, and no one has yet suffered any physical discomfort even, because of the war. In so far as these things have affected us at all they have been good for us. We think we are saving and giving, and we have raised some huge Liberty Loans, good investments, and have contributed millions to the army Y, the K. C., and the Red Cross. I hold here a circular with an alluring picture of a shirt and a sample of the goods. Somebody guesses the makers are asking for these shirts \$6.00, \$8.00, possibly \$10.00 each. This card reads "Gentlemen: Please make to my measurements — doz. Victory Silk Shirts at \$15.00 each"! If you want "one separate collar" the price is \$16.00

each! And a plain knitted scarf to match will be added for \$2.50 each! Think of it! How it will bring victory if men will wear \$16.00 Victory Silk Shirts, purchased by the dozen, in these days when we are exhorted to win the war by saving, and to stand back of the boy who risks his life "over there" by buying Liberty bonds over here. This circular is sent out by a long established house in Chicago that knows its customers. I wish we might feel assured they have mistaken the trade this time. But why should such circulars go out in these days when all the Victory dollars should go to down Kaiserism, and make the world safe for human rights? We have not yet begun to understand what this war means, we do not know its relative value. When we do Victory Silk Shirts will not again be heard of till we have settled with the "Potsdam Gang."

The spirit of the nation depends on the spirit of its individual parts. The man who thinks he is a patriot, but who will not sell his wheat which is needed to feed our allies because he hopes to get another dollar for it, and who growls when the price of wheat is fixed at a higher figure than he ever before dreamed of securing, may have a grievance because other prices soar without restriction, but he is killing the spirit of the nation whenever he indulges in merely destructive criticism. Healthy, helpful, constructive, criticism is right, and desirable, even in time of war, but we must all be ready to forget some of our rights just now, especially the right of complaining, in order that we may win the war. The banker who drops a word in the ear of each customer may do more damage than a big gun of the enemy. "Won't it be good to have peace times again, so we can have some of our rights?" is one of many such remarks I have recently heard. Even if such a growler does not intend to be pro-German, the effect is as bad.

This leads me to the heart of my talk, viz. *enemy propaganda* as a destructive force on the spirit of the nation. We now know propaganda is more dangerous far than spying or treachery. The awful Italian debacle, now known to have been due to German propaganda among the troops and officers of the Italian army, in a day was more effective than months of the most terrific bombardment. If further example were needed of the work of propaganda one need only look to Russia to find it and its destructive effects in every form. Our own country is peculiarly favorable ground for this kind of warfare. With our population gathered from all the nations of the earth, and poured in upon us by the million annually we may have been a melting pot, but these people are far from being melted into the consistency of a single nation. Here is every opportunity for every shade of propagandist to work and to conceal his identity. Here he finds every blood tie upon which to base his appeal and every stage of ignorance upon which he may play. However loyal

to this country these new arrivals may be, it can but be true that the emotions of many make them eager for some end that will bring peace between their adopted country and their native country, between them and their kin whom we are fighting and killing across the sea.

I do not here dwell upon the crasser forms of propaganda, like the stories everywhere circulating that the Red Cross is selling for somebody's profit the sweaters knitted for the soldiers. The other day a lady on the train confided to my daughter that a friend of hers heard of this and thought she would see, so she sewed a \$10.00 bill in the collar of a sweater and a little later was sure she saw a man wearing that very sweater. She asked him to let her examine the collar, and there, sure enough, was the \$10.00 bill! My daughter remarked that she supposed the sweaters did not have any collars. The lady had never thought of this, or of what a foolish and utterly improbable way it would be to risk \$10.00. But that story seems to have been told thousands of times, with slight variations, and often it is believed. I might multiply instances in my personal knowledge. People of undoubted intelligence accept without thought the most improbable stories and pass them on. When warned not to be gullible they indignantly deny that they believe anything, but I know cases where the very next day they were swallowing such stories like ripe grapes.

But the propaganda to which I would direct your attention is more insidious and far more dangerous. On Wednesday of this week, Commencement Week, we had at Ann Arbor a patriotic day. A huge meeting was addressed by Mr. James M. Beck, the distinguished New York lawyer, Monsieur Lauzanne, the editor of the Paris "Le Matin" and member of the French High Commission, Sir Robert Falconer, President of Toronto University, and our own incomparable General Leonard Wood. It was a great day, the greatest meeting I have attended. The burden of Mr. Beck's great speech was his warning against the day when we shall be offered peace. I wish to pass on his warning to you. You, as lawyers in every community, may better than any other citizens meet this most dangerous of all propaganda.

In the day, how far ahead I know not, when the German armies shall have been beaten and are being driven back to their own borders, when Germany shall have seen she can not accomplish her aims by further war, she will offer peace. She will not wait till her armies have been destroyed, her lands desolated, her Berlin entered. Before we can reach her borders she will propose a plausible peace.<sup>2</sup> What shall we do in that day?

2. As this goes to print, October 15, Mr. Beck's prophesy comes true. The President has answered clear and right this time. But the offers are not ended, and and lawyers still need to help keep us true.

She may offer to give up Belgium, to evacuate occupied France, possibly even to return Alsace-Lorraine. She will not wait for this till her strength is gone. She will point to the bloody battles ahead, to the thousands to be slain if the war is not ended on these terms. What will you say then? To what purpose have so many died, if at last a peace is to be made that leaves the foe its army undestroyed, its military autocracy in control of the great resources of Central Europe to use in making better plans for another and successful war of conquest? Where is God in this world, and justice to which we lawyers have devoted our lives, if prostrate Belgium has merely her pillaged cities, her desolated land back, and no compensation for her destroyed industry and property, for her impoverished, scarred, outraged and murdered people? What of similar conditions in France, in Serbia, in Poland, in Armenia?

If on this day that will surely come our country calls for men till justice can be secured, summons another million and yet another, till we are drained like our allies in Europe; if she calls for another hundred million of money for the Red Cross; and for other hundreds of millions for the army Y. and the K. C.; if she piles a new six billion Liberty Loan on the incredible loans before; in that day shall our nation stand true? We, as lawyers, may have a heavy and a great duty to perform when that time comes. Will your voice be heard and your best efforts be put forth to keep our country steady and strong in that time? President Wilson will listen to know what the people want. If their desires are overwhelmingly made known they will be heeded. The voice of the people must not then be dumb, and we lawyers, leaders of public opinion in our communities, must not fail the country and the world.

All history teaches the folly and the cost of such compromise settlements. To take only two examples, look at Prussia herself, and at our country in the Civil War. The rise of Prussia for four hundred years shows how Europe, over and again, has been punished for such settlements with the warrior kings of Prussia. In the days of Frederick the Great, and now in the days of Kaiser Wilhelm II, he who runs may read the lesson. Compromises permitted Prussia from a small Mark on the Baltic to stretch over nearly all of the Germany of today. Prussia is a land of conquered German and Polish states, each the price of a compromise peace. It is these that made possible the present war.

But we need not look so far. The steady light of our own history teaches what we should do now. Study the long series of compromises before 1860 and see how inevitably they led to the frightful struggle in the time of the Civil War, at that time the greatest the world had seen. But, God be praised, the great compromiser, Henry Clay, was followed by the greater uncompromising Abraham Lincoln.

Clay was willing to have this country part slave and part free. Lincoln said that could not long continue to be. In the course of the war Horace Greeley and the compromisers made the task of Lincoln infinitely more difficult, but to his immortal fame Lincoln, through the darkest hours, in the face of the greatest difficulties, never swerved from his inflexible purpose to fight on till the wrong was whipped to powerlessness, and until peace with eternal settlement of the slavery question was possible. As that war forever made the world free from slavery, so this war must go on until it is eternally free from brutal autocracy, that elevates might above right, tramples under foot the weak, regards justice and good faith as scraps to be torn in pieces when they stand in the way of its desires, and seeks to accomplish its will by the terrorism of cruelty and ruthlessness and hate, instead of by fair dealing and kindness and justice. Until that power in Germany is dead this war must go on, or we have a fearful reckoning at the hands of our children to whom we will bequeath another, more terrible war. This world cannot continue part autocratic and part democratic. Which shall it become?

Men of the law, we most of all citizens in these days of trial just ahead, by doing our our full duty as leaders, can serve our country and our God. May we in that day approve by our fortunes and our lives, if need be, those words of the great Lincoln: "Fervently do we hope, fondly do we pray, that this mighty scourge of war shall pass away. Yet if it last till all the weakth piled up by bondsmen's two hundred and fifty years of unrequitted toil has been sunk, and until the last drop of blood drawn by the lash, shall be repaid by one drawn by the sword, yet still it can be said as it was said of old, the judgments of the Lord are true and righteous altogether."

## A NEW FUNCTION FOR COURTS—DECLARING THE RIGHTS OF PARTIES.

PROF. EDSON R. SUNDERLAND, ANN ARBOR.

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In a recent opinion of the Supreme Court of the United States, Justice Holmes makes this interesting observation:

"The foundation of jurisdiction is physical power, although in civilized times it is not necessary to maintain that power throughout proceedings properly begun."<sup>1</sup>

Paraphrased, the statement comes to this:

In early times the basis of jurisdiction is the existence and the constant assertion of physical power over the parties to the action, but as civilization advances the mere existence of such power tends to make its exercise less and less essential.

If this is true, it must be because there is something in civilization itself which diminishes the necessity for a resort to actual force in sustaining the judgments of courts. And it is quite clear that civilization does supply an element which is theoretically capable of entirely supplanting the exercise of force in the assertion of jurisdiction. This is respect for law. If the parties to the action desire to obey the law, a mere determination by the court of their reciprocal rights and duties is enough. No sheriff with his writ of injunction or execution need shake the mailed fist of the State in the faces of the litigants. The judgment of the court merely directs the will of the parties, and the performance of duty becomes the automatic consequence of the declaration of right.

It is not to be assumed that the peaceful acquiescence of the highly civilized man in the legal findings of the court implies any loss of power in the court itself. Quite the contrary. The greater the ease with which the court's findings impose themselves on litigants, the more the real power of the court is demonstrated. But the force behind the finding of the court has become a latent instead of an active force. This transition is possible, however, only when the existence of the force is so well recognized and so clearly understood that no one would think it worth while to put it to the test. The entire cessation of actual coercive measures on the part of the court would therefore mark, not the disappearance, but the perfection of the rule of force.<sup>2</sup>

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1. *McDonald v. Mabee* (Decided March 6, 1917), 37 Sup. Ct. Reporter 343.  
2. *Salmond, Jurisprudence*, Ed. 4, p. 66.

The modern observer, noting this correlation between social progress and the decline in the need for outward display of force in the administration of justice, may well ask himself why we have not done better than we appear to have done. If the existence of force is enough, without its exercise, to sustain the court in its findings, why do we not show a realization of that fact in our remedial machinery? If the power of the State stands irresistibly behind our judicial decisions, why take so much pains to clothe them with the outward show of authority? Why display the sheriff and his writ with so much ostentation? We do not arm our traffic policemen with guns and cutlasses. Why insist that the court must always rattle the sabre?

To make a specific application of this general criticism, let it be asked why our judicial system does not provide a means for merely determining and declaring rights. If our civilization is not a sham, and the State is understood to be equal to the task of enforcing the decrees of its courts, a mere declaration may serve every purpose of an order, and the order will become unnecessary. A declaration by the court that A is entitled to the immediate possession of a chattel in B's possession, should be equally effective in A's behalf as a judgment that A do have and recover of B the possession of the chattel. A judicial declaration that a certain city ordinance is invalid ought to serve equally as well as an injunction against its enforcement. Furthermore, the remedial possibilities in such declaratory judgments are much greater than in judgments for relief, and they open up an entirely new field for judicial usefulness, as will be hereinafter pointed out.

The answer to the question, why our courts do not make declarations of right, with or without relief, is probably historical, and lies in the philosophical conceptions of rights and remedies which have long been current in common law jurisprudence.

The common law was wedded to the idea of a wrongful act on somebody's part as a necessary condition precedent to judicial action.

Thus Holland, speaking of remedial rights, or rights of recourse to courts of justice, says:—"The causes, or 'investitive facts,' of remedial rights are always infringements of antecedent rights \* \* \*".<sup>3</sup> And again, he says: "So long as all goes well, the action of the law is dormant. When the balance of justice is disturbed by wrongdoing, or even by a threat of it, the law intervenes to restore, as far as possible, the *status quo ante*." And in still further emphasis of this same characteristic of the court, as an *ex post facto* agency, he says:—"If all went smoothly, antecedent, or primary, rights would alone exist. Remedial, or sanctioning, rights are merely part of the machinery provided by the State for the redress of injury done to antecedent

3. Jurisprudence, Ed. 9, p. 310.

4. Jurisprudence, p. 306.

rights. This whole department of law is, in an especial sense 'added because of transgressions'.<sup>5</sup>

Salmond expresses the same view as to the function of courts and the conditions under which they may be used by litigants. He says:—"Both in civil and in criminal proceedings there is a *wrong* (actual or threatened) complained of. For the law will not enforce a right except as against a person who has already violated it, or who has at the least already shown an intention of doing so. Justice is administered only against wrongdoers, in act or in intent."<sup>6</sup>

Courts of equity operate upon the same theory of remedial justice as courts of law. Thus, injunctions are granted to restrain threatened wrongs, specific performance is decreed in case of breach of certain contracts, various remedies are available against those who are guilty of fraud or whose claims wrongfully rest on accident or mistake, an accounting may be had to test the accounts of those who are charged to have profited at the plaintiff's expense, titles are quieted against those wrongfully asserting rights hostile to the title of the plaintiff. In the case of bills for discovery, there is usually an action at law to which the bill is ancillary, and furthermore the party against whom the discovery is sought may be deemed to be wrongfully refusing to disclose. In all of these cases coercive relief is granted. A single exception serves only to make the rule more striking, and this is the administrative control exercised by courts of equity over trusts, permitting a resort by the trustee to the court to obtain a judicial construction of his powers and responsibilities under the terms of the trust instrument.

Proof of the accuracy of this summary of the attitude of courts of equity, in accordance with which they refuse to take jurisdiction of cases not calling for coercive relief, may be found in the express language of our courts. Thus in *Woods v. Fuller*,<sup>7</sup> the Supreme Court of Maryland said:—"A Court of equity will not take jurisdiction, unless it can afford immediate relief \* \* \* It must be borne in mind that the *decree* of a Court of equity, and not its *opinion*, is the instrument through which it acts in granting relief. However sound and clear such *opinion* may be, as an abstract proposition of law, yet if the principle it declares cannot be carried into effect by a decree, in the case in which it is given, it is wholly valueless, and an idle and nugatory act."

In *Greeley v. Nashua*<sup>8</sup> the city of Nashua filed a bill to determine its rights to certain property devised to it under a will, and the Supreme Court of New Hampshire said:—"The plaintiffs \* \* \* request

5. Jurisprudence, p. 139.

6. Jurisprudence, p. 71.

7. (1884) 61 Md. 457.

8. (1882) 62 N. H. 166.

the court to inform them what their legal rights and those of the defendants are in the property devised. The court might with equal propriety be called upon by the parties interested to advise them regarding the title to land, the construction of a contract, or any other question of law. Such questions are not ordinarily adjudicated until it becomes necessary to decide them in proceedings instituted for the redress of wrongs." The court then goes on to say that "they are prospectively determined by a court of equity in behalf of trustees who in the execution of the trust are entitled to its protection. Trustees are not required to incur risk in the management or distribution of the trust fund." Could anything be more quaintly suggestive of the ancient bigotry of the common law, when the judges hoarded their remedies as jealously as a miser hoarded his gold? Protection must be saved for trustees, for if granted to others the supply might run short.

And in *Bevans v. Bevans*\* a bill was filed to obtain the construction of a will with respect to the title to real estate. The Chancellor of New Jersey said:—" \* \* \* It is settled that the court will not express opinions in regard to construction for the mere information of parties, disconnected from some equitable relief sought."

In accordance with this view of the defendant as an alleged wrongdoer, and the action as one founded upon his actual or threatened wrong, it is quite true that a judgment for relief against him would always be appropriate, and would fully meet the situation. So the law reasoned, and so it ruled. If coercive relief *might* always be granted, it *ought* always to be granted, for why make a mere declaration of right against a wrongdoer who is before the court and subject to its power. Why merely tell him that he has no right to do as he proposes when the court can just as well prohibit the act. Why merely advise when it can as well command?

The United States has, in every department of its legal practice, accepted without question the foregoing theory of remedial justice. We have not allowed our developing civilization, with its constantly increasing respect for law, to produce any effect upon judicial functions. We refuse to allow parties to appear in court except under conditions which permit a display of force by the judicial arm of the State.

England has been much more enterprising. In 1852 parliament took the first step to abandon this archaic conception of remedial law. In that year an act was passed amending the practice of the High Court of Chancery, and one of the sections of that act provided as follows:—

"No Suit in the said Court shall be open to Objection on the

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9. (1905) 69 N. J. Eq. 1.

Ground that a merely declaratory Decree or Order is sought thereby, and it shall be lawful for the Court to make binding Declarations of Right without granting consequential Relief."<sup>10</sup>

This statute, while striking in its novelty, was subject to strict limitations. It applied only to Courts of Chancery, and it was construed to embrace only those cases where there was consequential relief which might be granted, but which the parties did not care to ask for or receive.<sup>11</sup>

But reforms moved swiftly in England. In 1873 the Judicature Act completely broke the shackles with which conventionality had burdened the administration of justice. And in the rejuvenation which the law experienced, all the limitations upon declaratory judgments which the old statute had retained, were swept away. The new rule was put into force in 1883, as Rule 5 of Order 25, and provided as follows:—

"No action or proceeding shall be open to objection, on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right whether any consequential relief is or could be claimed or not."

This rule introduced "an innovation of a very important kind," to use the words of Justice Lindley.<sup>12</sup> It threw open to the court the right to do just what the Chancellor of New Jersey declared in *Bevans v. Bevans* (supra), that courts would never do, namely, "express opinions in regard to construction for the mere information of parties \* \* \*."

Later, another rule was added which is probably to be deemed a mere specification of a class of cases originally embraced within the terms of the foregoing rule, which provided in express words that—

"In any Division of the High Court, any person claiming to be interested under a deed, will, or other written instrument, may apply by originating summons for the determination of any question of construction arising under the instrument, and for a declaration of the rights of the persons interested."

This was Order 54A, Rule 1, passed in 1893.

For thirty-five years the English courts have exercised this jurisdiction, both at law and in equity, of advising parties as to their rights, with or without coercive relief at the option of the parties.

Now, two different classes of cases, based upon different principles, are presented by the present English rules.

1. We have first the cases where coercive relief might be had, but it is not desired. Here there is merely a new remedial right granted to the plaintiff. He has a cause of action of the conventional

10. 15 and 16 Dict., c. 86, s. 50.

11. *Rooke v. Lord Kensington* (1856), 2 K. & J. 753, 761.

12. *Ellis v. Duke of Bedford* (1899), 1 Ch. 494, 515.

type, but he wants to use it for a new purpose. Instead of asking that the defendant be ordered to perform his contract, he only wants the court to assure him and inform the defendant that he has a right to performance. Instead of enjoining the defendant from taking certain action, he merely asks the court to advise him and the defendant whether the latter has a right to take it.

The advantages of asking advice instead of coercive relief are important. In the first place it presents in the pleading a specific and express issue of law, which can usually be answered yes or no, and which will settle the controversy between the parties. In this way the scope of the legal inquiry presented by the pleadings is clarified and limited. Furthermore, the issue of law is not one which must, as in case of a demurrer, be developed without any accompanying issue of fact. It is usually an issue of law to be decided upon the outcome of the trial or hearing, so that almost every case is capable of being presented as a case for advice. Thus a declaration of right may be asked as to a contract which plaintiff alleges contains certain provisions. If the defendant denies some of the terms alleged, the declaration of right will be based on the terms which the evidence substantiates. If one were inclined to question the advantage of this procedure in simplifying the issues, a glance through some of the current English reports would convince him of its effect. The question to be decided is always the correctness of the declaration asked, and the court has only to answer the specific questions thus put to it.

By asking for the declaration of right the party makes definite and certain the theory of his case, and the court is never at a loss to understand exactly what is in issue between the parties.

But there is another result which this procedure accomplishes in cases where coercive relief might be had, and that is a psychological one. Every case may by this means become, in appearance at least, a *friendly suit*. There is no doubt that the personal animosities developed by litigation are serious drawbacks to the usefulness of the courts. To sue is to fight, and fights make endless feuds. Parties hesitate to resort to the courts because they shrink from the state of war with their neighbors or business associates. But if the courts could operate as diplomatic instead of belligerent agencies, less hesitation would be felt over recourse to them and less strain would be put upon the friendly relations of the parties. To ask the court merely to say whether you have certain contract rights as against the defendant is a very different thing from demanding damages or an injunction against him. When you ask for a declaration of right only, you treat him as a gentleman. When you ask coercive relief you treat him as a wrongdoer. That is the whole difference between diplomacy and war; the former assumes that both parties wish to do right, the

latter is based on an accusation of wrong. A request for a declaration of right plainly implies full confidence that the defendant will promptly and voluntarily do his duty as soon as the court points it out to him. It indicates a willingness to rely on the defendant's sense of honor, as a sufficient remedy. It makes the law suit a cooperative proceeding, in which the court merely assists the parties to settle their own differences by stating to them the rules of law which govern them.

These considerations alone are enough to recommend the practice in any country where respect for the rights of others is considered a virtue. The force behind the court is not at all weakened by it, for if it appears that the plaintiff's confidence in the defendant's readiness to do right is misplaced, the coercive decree of the court is always ready to be promptly issued in support of its declaration.

2. An entirely different situation, however, is presented in those cases where no coercive relief can be granted. Here there is an entire absence of a cause of action in the conventional sense. Since the defendant has not yet done or threatened anything wrong, nor failed to do all that is lawfully incumbent upon him, there is nothing for the court to operate upon, if we accept the definitions of a cause of action set forth in an earlier portion of this article. If remedial rights arise only in support of primary rights infringed or threatened, there can be no remedial right of any kind in such cases.

To account for the right to a declaratory judgment in cases where no relief is possible, it seems necessary to boldly concede that the statute which authorizes it has created not a new remedy merely, but a new primary right. The old primary rights were the correlatives of duties calling for present action on the part of the defendant. These were infringed when the defendant failed to do what the law required. They were all based on a social system which considered justice as a by-product of force, and which saw no need for judicial administration concerning itself with any but wrongdoers. The common law never looked upon the courts as agencies useful for enabling parties to keep out of trouble. That was the business of the lawyers. It never admitted that any one had a legal right to know what his rights were.

The new rule authorizing declaratory judgments in cases where no relief is possible, gives one the right to know his rights. Since ignorance of the law excuses no one, the law will furnish an oracle to declare it. Assuming that parties intend to do right, it will point out the way they should go. To use a homely figure, prior to 1883 the English courts were employed only as repair shops; since that time they have been operated as service stations.

The field which the new rule opens is a wide and fruitful one, and by contrast makes the old practice, which is of course the current

American practice, seem incredibly stupid. It furnishes remedies which no civilized country ought to deny to its citizens, and the lack of them is a serious hardship in this country.

The practice of making declarations of right has completely revolutionized English remedial law. The American lawyer who peruses the current English reports is bewildered by their novelty. He is like a modern Rip Van Winkle, who, having gone to sleep in an age when courts were only the nemesis of wrongdoers, awakens to find that they have become the guardians and advisers of those who respect the law.

The only recourse of an American who wishes to get a forecast of his rights is to consult his lawyer. But the lawyer's opinion is without the slightest binding force. Vast interests may be at stake, but all the client can do is to gamble on the sagacity of his counsel.

In England such compulsory gambling has been outgrown. The client consults his lawyer, the lawyer, in case of doubt, frames a case for the court, and the court, on a full hearing *with all interested parties before it*, makes a final and binding declaration on which the client can act with perfect security. The practice is so convenient and so obviously advantageous that it has become almost a matter of course in English chancery cases and is very common on the law side of the court. An examination of a recent volume of Chancery reports, volume 2 for 1916, shows that out of 64 cases reported, 43 were brought for declarations of right. It would be safe to say that approximately two-thirds of the current Chancery litigation in the Supreme Court of Judicature is directed to obtaining the advice of the court as to rights of litigant parties, with or without prayers for consequential relief.

The cases in the volume of chancery reports above mentioned will illustrate the nature and range of questions put to the court for determination. Thus, in *Lovesy v. Palmer*,<sup>13</sup> plaintiff asked for a declaration that certain memoranda and letters constituted a binding contract between the defendants and the plaintiff to make a lease of a theatre. In *Smith, Coney & Barrett v. Becker, Gray & Co.*,<sup>14</sup> the plaintiff asked for declarations that certain contracts which they had made with defendants were illegal by reason of the proclamation of a state of war between Great Britain and Germany. In *Re Ludwig*,<sup>15</sup> the plaintiff asked the court to declare whether certain trusts were void for remoteness. In *Re New Chinese Antimony Co., Ltd.*,<sup>16</sup> the liquidator of a company asked the court to determine and declare the correlative

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13. (1916) 2 Ch. 233.

14. (1916) 2 Ch. 86.

15. (1916) 2 Ch. 26.

16. (1916) 2 Ch. 113.

rights of the preferred and common shareholders in the assets of the company. In *Re Chafer and Randall's Contract*<sup>17</sup> plaintiff asked a declaration that the abstract of title delivered by the defendant to the plaintiff did not show a good title. In *Cassel v. Inglis*<sup>18</sup> plaintiff asked the court to declare that he had been illegally excluded from membership in the Stock Exchange. In *Coleman v. London County and Westminster Bank, Lim.*<sup>19</sup> the court was asked to decide the question of priorities in certain debentures as between the plaintiff and defendant. In *Parsons v. Equitable Investment Co., Lim.*<sup>20</sup> the court was asked to declare that a certain bill of sale was void because it failed to truly state the consideration for which it was given. In *Pearce v. Bulteel*<sup>21</sup> a declaration was asked as to who were the owners of certain property. In *Gilbert v. Gosport and Alverstoke Urban District Council*<sup>22</sup> plaintiff asked the court to declare that he owned certain land free of any public right of way. In a majority of the above cases there was a present cause of action in the plaintiff, which was either utilized as the basis for a claim for relief in addition to the declaration of rights, or was abandoned in favor of the declaration as a better remedy.

The cases where a declaration of rights is the sole possible remedy are not easy to classify. Perhaps no logical classification is possible, for the whole matter of declaratory judgments is discretionary with the court, and each case seems to go on its own facts as an appeal to the exercise of that discretion. The scope of the applications for such declarations which the courts have approved, and the corresponding limitations upon the remedial possibilities in American practice, may be roughly shown under the following heads, merely as a means of convenient presentation.

1. A declaration of rights may be had where there is a present possibility of immediately creating a cause of action, as by a demand or refusal, but the parties have not done so, perhaps through reluctance to precipitate a conflict. This is the typical case for a friendly application to the court. It avoids the necessity of formal hostilities, such as American friendly suits require, and enables the parties to show on the face of the record that there has been a forbearance of any peremptory action. Thus, while an action on a contract, either for specific performance or damages, requires the allegation and proof of a breach by the defendant, a declaration of rights would seem to be available without any such allegation.

In *Williams, Hollins & Co., Lim., v. Paget*,<sup>23</sup> defendant was a manager

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17. (1916) 2 Ch. 8.
  18. (1916) 2 Ch. 211.
  19. (1916) 2 Ch. 353.
  20. (1916) 2 Ch. 527.
  21. (1916) 2 Ch. 544.
  22. (1916) 2 Ch. 587.
  23. (1917) 86 L. J. Ch. 287.

employed by the plaintiff, under a salary and a contract for additional compensation. There were two possible methods of computing the additional compensation. The manager insisted on the higher, the employer on the lower basis of computation. Instead of creating a cause of action for damages by a demand on the part of the manager and a refusal on the part of the employer the parties obtained a declaration from the court as to the true basis of computation.

In *Rawlinson v. Mori*<sup>24</sup> the court made a declaration that a certain organ, which had come rightfully into the possession of the defendants, was the property of the plaintiff, although no demand for it had ever been made upon the defendants.

In *H. Newsum & Co., Ltd., v. Bradley*,<sup>25</sup> the plaintiffs were indorsees of bills of lading for the carriage of a cargo of wood in defendant's steamship *Jupiter* from Archangel to Hull. The ship was torpedoed by a German submarine, and the crew were compelled by the enemy to leave her. Subsequently she was towed into a Scottish port by a British patrol boat, and the plaintiffs claimed the right to take possession of the goods without payment of freight. The parties agreed to allow the ship to proceed with her cargo to Hull subject to plaintiff's rights as of the date when she lay in the Scottish port, and this action was commenced for a declaration by the court as to what those rights were, no demand or refusal appearing to have been made. The declaration was given as asked by the plaintiffs.

An extremely large and varied class of cases of this kind arises out of the construction of written instruments, fixing the mutual rights of parties. Here present claims for relief might be created through action by one party hostile to the rights asserted by another party, but under Order 54A, Rule 1, such a course is rendered entirely unnecessary. A doubt having arisen as to the meaning or effect of the instrument, this is enough to make it possible for any party concerned to present to the court the question upon which the doubt hinges.

A typical case is *Cyclists' Touring Club v. Hopkinson*,<sup>26</sup> where certain members of the plaintiff club desired to grant a pension to the club's secretary, who had filled that office for many years. A minority voted against the pension. The question was raised whether under the articles of association such action would be valid, and this suit was brought solely to determine the question of power under the articles, no action having been taken or threatened pursuant to the vote to grant the pension. The court declared that the granting of such a pension would not be *ultra vires*.

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24. (1905) 93 L. T. 555.

25. (1917) 86 L. J. K. B. 1238.

26. (1909) 101 L. T. 848.

In *Re Smith*<sup>27</sup> the plaintiffs asked the court to declare that by virtue of a certain contract made by them with one Smith, in his lifetime, they were entitled to have Smith's executors execute to them a legal mortgage upon certain property belonging to the estate as security for certain advances. The declaration was made.

Similar instances might be indefinitely multiplied, but the principle underlying them is plain and seems to call for no further illustration. American practice limits bills for instructions to cases where there is some independent ground of equitable jurisdiction, such as trusts.<sup>28</sup>

2. Where one party only has a present right of action for legal or equitable relief, but the other will suffer a serious prejudice by delay in bringing it into court, the latter may have a declaration of rights.

Under American practice the courts can give the latter party no relief. He must helplessly wait until the party who has the cause of action chooses to sue him, even though the delay serves only to pile up the damages which he may eventually have to pay.

For example, suppose a patentee claims that a manufacturer is infringing his patent. The patentee has a cause of action of the conventional type, but the manufacturer has not. The patentee can sue the manufacturer, but the latter cannot sue him. The manufacturer may have a large investment in the machinery for making the disputed device, and may have spent large sums in advertising it. Upon the patentee's assertion of patent rights, the manufacturer must either discard his machinery, abandon his investment, and lose the good-will he has built up, or continue to operate under the constant threat of an action for damages whenever the patentee thinks that sufficiently large damages have accrued to make a law suit a profitable venture. If a declaration of rights could be had, the manufacturer could at once apply for a determination of the validity of the asserted patent, and thus save himself from the risk of serious loss and injury.

Such was the case presented in *North Eastern Marine Engineering Co. v. Leeds Forge Co.*,<sup>29</sup> where defendants claimed that plaintiffs were infringing their patents. Plaintiffs asked for a declaration that defendants' patents were invalid and that plaintiffs had not invaded any of defendants' legal rights. Had the Patents and Trademarks Act not offered an adequate remedy in just such a case—a remedy which the American Patent Law does not give,<sup>30</sup>—the court would have given the declaration.

Another common instance of such a situation occurs where one makes separate contracts with two other parties, and one or each of the latter

27. (1916) 2 Ch. 206.

28. 1 Whitehouse Equity, Sec. 129.

29. (1906) 1 Ch. 324.

30. The remedy offered under American practice is limited to a finding upon conflicting patents. U. S. R. S., Sec. 4918.

claims that his contract is broken by the contract with the other, as where two jobbers each claim exclusive rights in the same territory under separate contracts with the manufacturer. Here the manufacturer has no present cause of action for relief, and can only wait until sued by one or both of the jobbers. This situation is always possible where contemporary contracts are made with different persons respecting the same subject matter. Provision for declarations of rights would offer a satisfactory solution and would merely put into force the equitable rule of mutuality of remedy.

3. Where the plaintiff has no ground for relief but there is a probability, though not a threat, that the defendant may assert rights hostile to him, a declaration of rights may be had.<sup>31</sup>

4. Where a cause of action for relief is in a condition which might be called inchoate, and lapse of time is necessary to perfect it, the court will declare the rights of the parties; as in *Austin v. Collins*,<sup>32</sup> where a forfeiture of a life estate was to result unless a certain condition should be performed within a year, and the tenant got a declaration before the year was out that impossibility excused non-performance of the condition; or in *West v. Lord Sackville*,<sup>33</sup> where a remainderman got a declaration as to his title prior to the death of the life tenant; or in *Powell & Thomas v. Evans Jones & Co.*,<sup>34</sup> where a judgment was given for certain money received and a declaration respecting such further sums as might subsequently be received.

5. When the plaintiff has and can have no cause of action for relief, but his dealings with third persons depend on the determination of questions arising between himself and the defendant, a declaration of rights will be made.

In *Jenkins v. Price*,<sup>35</sup> the lessee of a hotel wished to assign her lease, but under its terms could not do so without the lessor's consent, unless such consent was unreasonably refused. The lessor refused. The lessee, in order to place herself in a position where she could deal with her proposed assignee, asked for a declaration that the refusal was unreasonable and released her from the restriction against assignment. This declaration was given.

Lord Justice Vaughan Williams, in a similar case<sup>36</sup> used very strong language in support of the practice, saying:—" \* \* \* It seems to me that it would be quite shocking if the Court could not put an end to the dispute in the way the learned judge has done by this order. I mean it would be quite shocking if \* \* \* the Court were bound to say, 'Although we have the whole matter before us \* \* \* we must

31. *Hopkinson v. Mortimer, Harley & Co.*, (1917) 86 L. J. Ch. 467.

32. (1886) 54 L. T. 903.

33. (1903) 2 Ch. 378.

34. (1905) 1 K. B. 11.

35. (1907) 2 Ch. 229.

36. *Young v. Ashley Gardens Properties, Ltd.* (1903). 2 Ch. 112.

leave matters in this state, that the landlord may continue to abstain from granting his license and the tenant must assign at his own risk—that is, at the risk of forfeiture.’”

A similar situation arises in case of attempted sales of property in which others claim rights. The prospective purchaser does not care to buy a lawsuit, and only by a declaration of right against the claimant can the title be made merchantable in cases where a bill to quiet title would not lie.

Thus, in *Re Burroughs-Fowler*,<sup>37</sup> a trustee in bankruptcy offered property for sale, but the prospective purchaser objected that the title was defective. The trustee thereupon applied for a declaration that he was able to convey a good title, and the court so declared.

In *Re Trafford's Settled Estates*<sup>38</sup> the applicant wished to sell certain lands which he acquired under a will, freed from certain annuities which were created by the same will. He could do so only if he was a person having the powers of a tenant for life, and asked for a declaration that he had such powers. The court decided the question so presented.

6. Where there is no present cause of action in the ordinary sense but the accrual of such a cause of action will subject the plaintiff to the risk of penalties, the court will declare the rights of the parties.

In such a case the plaintiff is not required to incur the risk of the penalties, but may obtain a declaration to inform himself of his rights in anticipation of penal liability. The question was thoroughly argued in a number of cases involving the inquisitorial powers of crown officers, and the judges all agreed that the anticipatory declaration of rights was an eminently suitable remedy.

Thus, in *Burghes v. Attorney-General*<sup>39</sup> the Commissioners of internal revenue had required plaintiff to make certain returns respecting rents paid out or received, for the purpose of fixing duties on land values. The plaintiff asked the court for a declaration that he was not bound to give the information demanded. Warrington, J., said:

“The complaint is that officers of the Crown are demanding information they are not entitled to, and, to say the least of it, reminding the subject of unpleasant consequences which may ensue if it is refused. It seems to me immaterial whether the terms of the notice amount to an actual threat; the reference to the penalty is plainly intended to intimate to the plaintiff that compliance can, and will, be compelled if necessary. If the question be not decided in this way it must be left open until the plaintiff, having refused to comply, is

37. (1916) 2 Ch. 251.

38. (1915) 1 Ch. 9.

39. (1911) 2 Ch. 139, 155.

sued for penalties, and the plaintiff would be left in a position of great perplexity. In my opinion, the mode adopted by the plaintiff for obtaining a decision is a very convenient one, enabling the Commissioners to be informed how far they may go, and relieving the plaintiff from the doubt and perplexity into which he has been cast."

Another action of the same kind was brought in the King's Bench Division, and the Court of Appeals took the same view as Warrington, J., in the Burghes case. This was *Dyson v. Attorney-General*,<sup>40</sup> in which Farwell, L. J., speaking in the Court or Appeal, said:—

"It is obviously a question of the greatest importance; more than eight millions of Form IV [the form on which the information was required to be given] have been sent out in England, and the questions asked entail much trouble and in many cases considerable expense in answering; it would be a blot on our system of law and procedure if there is no way by which a decision on the true limit of the power of inquisition vested in the Commissioners can be obtained by any member of the public aggrieved, without putting himself in the invidious position of being sued for a penalty \* \* \*."

The latest case of this kind is *Ertel Bieber & Co. v. Rio Tinto Co.*<sup>41</sup> The Rio Tinto Co., an English company, owned large mines in Spain, and was under contract to sell to the plaintiffs, which were German companies doing business in England, several million tons of ore over a period of 4 years, for delivery at various continental ports. The question arose whether these contracts were abrogated by the British Trading with the Enemy Act. Under our practice the Rio Tinto Co. would have been faced with the dilemma of going ahead with the contracts and taking the risk of incurring penalties under the Act, or stopping performance and laying itself open to actions for large damages. What it did was to commence an action for a declaration that it was no longer bound by the contracts, and the declaration was promptly made by the court.

7. Where plaintiff as a strict matter of law, has a right to an injunction, yet on account of the peculiar facts of the case the court may prefer to substitute a declaration of right as a more suitable remedy.

In *Vestry of St. Mary, Islington v. Hornsey Urban District Council*,<sup>42</sup> the plaintiffs, a metropolitan vestry, agree to allow defendants, a district outside the metropolitan area, to discharge their sewage into plaintiffs' sewer, but after many years operation it was found that this additional sewage periodically stopped up plaintiffs' sewer. The agreement was *ultra vires* and void. The plaintiffs sought an injunction to restrain defendants from discharging sewage into plaintiffs'

40. (1911) 1 K. B. 410, 421 ff.

41. (1918) H. L. 200.

42. (1900) 1 Ch. 695.

sewers. It was held that while the court had power to grant the injunction, yet, in view of the difficulty in which it would place defendants if obliged to close sewers in daily use, the Court would only make a declaration establishing plaintiffs' right to relief, to give defendants time to make other arrangements, with leave to apply for an injunction after the expiration of a reasonable time.

8. Where relief can only be granted in a foreign jurisdiction, the respective rights of the parties may be fixed by a declaration as an aid to the foreign adjudication.

In *The Manar*,<sup>43</sup> the plaintiffs were mortgagees of the British ship *Manar*, and on default in payment of the mortgage they had taken possession and chartered the ship for a voyage to France. On arrival there the defendants, Strachan Brothers, British subjects, arrested the ship and freight, claiming as creditors of the mortgagors for necessities furnished to the ship. It appeared to be in dispute whether the French court would apply the English law in determining whether the plaintiffs as mortgagees or the defendants as necessities men were entitled to the possession of the ship and freight. The plaintiffs asked for a declaration that they were entitled to the ship and freight as against defendants. It was held that since it was not clear from the evidence what effect a judgment in this action would have in France, and since it had not been shown that the declaration sought would not be of practical utility to plaintiffs in the French Court, the declaration would be given.

I want to emphasize two points in connection with this practice.

First. It does not contemplate the hearing of moot or abstract cases by the courts. In every case there is an actual controversy between parties who urge conflicting claims.

Second. It has nothing in common with the practice provided for in a few States, whereby the executive or legislative department of the State may call upon the Supreme Court for its opinion upon important questions of law, or whereby the court may render judgment in advance upon such questions as the legality of a municipal bond issue. The difficulty with this procedure is that the court does not have the benefit of argument by interested parties, nor is it able to gauge the effect of a decision disassociated from the saving restrictions of a concrete case. The declaratory judgment is always the result of an actually litigated concrete controversy between parties who represent every interest involved and are actually before the court.

It seems quite evident that England has far surpassed this country in devising remedial methods calculated to make the courts useful and available under the exacting requirements of modern civilization.

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43. (1903) P. 95.

We have canonized the ancient tradition of a cause of action, in all its original crudeness, and have made it the condition and the measure of judicial action. We have failed utterly to see the enormous and far-reaching possibilities in preventive relief,—prevention not merely of threatened wrongs but prevention of uncertainty and misunderstanding in the assertion of rights. Yet here is an effective, workable system, tried out under conditions identical with those in our own country, which marks an advance over previous doctrines comparable to the great reform which equity made over the harsh rules of the common law. Its use would entail no reconstruction of our judicial machinery, no readjustment of other elements in our remedial system.

I am inclined to think that the Supreme Court of the United States has recognized the principle of the declaratory judgment in several recent cases. Thus, in *Brushaber v. Union Pacific R. R. Co.*,<sup>44</sup> an action was brought by a stockholder against the corporation to enjoin the payment of taxes. The real defendant was the United States government, but it was not formally made a party and no relief was asked against it. However, the government actually appeared in the guise of an *amicus curiae* and took part in the suit, under the tacit understanding that the decision of the question involved would be considered as fixing the rights of the government in the premises. Another case very much like this is *Corbus v. Gold Mining Co.*<sup>45</sup> In both cases the relief asked was a mere formality, and in view of Section 3224 of the United States Revised Statutes, forbidding any suit for the purpose of restraining the collection of any tax, it would seem that a decree for relief would have been wholly ineffectual. The determination and declaration of rights was the real object of each suit, and so far as the government was concerned the judgment was a declaratory judgment.

The theory and operation of the English rules respecting the declaration of rights are perfectly simple. By adopting the language of the English rules, Order 25, Rule 5, authorizing declarations of rights, and the supplementary, though possibly unnecessary, rule, Order 54A, Rule 1, authorizing the judicial construction of documents, we might enjoy the fruits of England's experience, enriched as it is by the thirty-five years' labor which her courts have devoted to charting the waters over which the applicant for a declaratory judgment must sail.

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44. 240 U. S. 10.

45. 187 U. S. 459.

## REMARKS BY MAJOR A. E. PETERMANN,

DELIVERED BEFORE MICHIGAN STATE BAR ASSOCIATION.

I want to talk with you this morning about a proposition that I want to place before the Michigan State Bar Association. I am going to be just as brief as I can because I know you have other work to do and want to get through by noon in order to go to dinner or a lunch at Gull Lake.

The present emergency has created a great deal of work that the bar can do. I am not going to take up your time talking about the various activities that other states have engaged in; I am not going to talk about what they have done in helping the various Liberty Loans, the Red Cross or the Y. M. C. A. and in helping to keep alive the patriotic spirit of the American people. I am going to confine myself simply and solely to one subject, the duty of the bar in connection with the men who go into the service. I have been stationed at Lansing for some months and have been engaged in connection with the draft. I have been helping to secure uniform operation of the Selective Service Act in Michigan. I have noticed all along the road there has been a place for the work of the bar. Under the first regulations promulgated by the President, as most of you know, it was necessary for the registered man who thought he ought to be exempt from military service to make and file a claim for exemption with his draft board. In many cases the draft board had among its members men who were loyal and sometimes they were men who could help the registrant out by formulating his claim for appeal but in very many cases in Michigan, and I suppose in other states, the draft boards are made up of the sheriff of the county, the clerk and a physician, three members, and sometimes they had men on the draft boards who could not assist the men in making an appeal.

There was an appeal made to the bar of Michigan to step forward and offer its services to the registered men on the theory that every registered man, no matter what his claim might be, was entitled to have his claim placed before the draft board in the best possible light. And in that appeal to the bar no lawyer was to charge for services rendered in that respect, and further that no lawyer ought to appear before the draft board in the attitude of a solicitor or lawyer for the registrant for deferred classification or exemption. That appeal was made to the bar of Michigan and I am glad to say, with one or two

exceptions, the lawyers of Michigan entered into the spirit of the thing, and I am quite sure there was no registered man who did not have an opportunity to present his claim before his local draft board.

In December the regulations were changed. They began then to classify all the registered men, and a very complete and full questionnaire was formulated of some 16 or 17 pages and I imagine there is not a lawyer in Michigan but what has seen those questionnaires.

It was recognized and understood at the time the questionnaires were sent out that 90 per cent of the registrants would not be able to fill them properly unassisted.

So an appeal was again made to the bar and again I can say that the bar of Michigan, at least, came to the front and performed their duty without being paid a dollar, willingly and well. It was some job, and you will appreciate the importance when you remember in Michigan we have had something over 375,000 men registered.

The largest part of the work was in Detroit, for the reason that the boards in Detroit had more registrants than any of the other boards, some running as high as 10,000 men to the board.

In order to organize this work there were created what was called Legal Advisory Boards; there was one created for each Judicial Circuit in the state and the Circuit Judge was made Chairman. The theory was that those boards would form a nucleus around which the bar would gather for service. Each board was permitted to work out its own plan of procedure. In Detroit committees were formed and placed in the different plants around the city. It was a terrific task to make out questionnaires for 375,000 men, but it was accomplished in Michigan without very much trouble. With few exceptions they were filed within the proper time and were properly made out. Now, that has been the work the lawyers have done so far.

But there is something more now and I want to ask you to bear with me while I call your attention to one or two things that the lawyers can do, then I want to submit a concrete proposition and ask you to adopt it. The men who are called into the service through the Selective Service Act are not exactly in the same position as the man who volunteers. I know that the Selective Service Act is looked upon in an erroneous manner in some respects. I do not like to think of a man who goes into the service through that Act, as a man who has pulled back in the traces until pushed into the army. That is not true. I am simply repeating what somebody else has said when I tell you that the theory of the Selective Service Act is this: You and I perhaps are just as patriotic as anybody else in the United States, perhaps we are twenty-five years old and we have a business concern, we have friends at home, and we do not feel like going out and volunteering knowing that there are friends living the next door who will stay at home and do the same thing. So I want you to think

of the Selective Service Act in this way, that it is a typical American sporting proposition. All the men in the United States have thrown their names into the same hat and they say, "Now let's make a sporting proposition out of it. We will draw out of the same box, we will provide the machinery by which there can be a fair selection, the man whose name is drawn first goes and the next man next, but we are all standing back of you and we are all going when our time comes."

That is the theory of the selective Service Act; it is a volunteering of the entire population enmasse. A great many of those young men have business affairs, a great many of them have dependents.

The Federal Government has passed several acts to minimize the hardship of men going into the service. I want to talk to you a minute or two about one or two of those acts. I assume that most of you know all about them. I am not going to go into detail on the subject at all because each of you ought to have a copy of those acts in order to know about them. If you have not I am going to ask you to get them and look them over. First, let me tell you about one act passed by the last legislature of the State of Michigan in the early part of the war, when war was first declared. Governor Sleeper stated last night that this bill was introduced before war was declared. Of that I am not sure, but it was just about that time. The so-called Five Million-Dollar appropriation bill was introduced and passed by the State Legislature. The bill provided, among other things, for a board to administer and use that money for the relief of dependents of soldiers who went into the service. It placed a limit of twenty dollars a month as the amount which might be sent to any one dependent. The State immediately began to afford this relief. I cannot tell you how much money has been expended in that way; I do know a great deal was given under that act; it is still in force and can be utilized at the present time, and it is very simple. The dependent simply makes application to the War Preparedness Board, a blank being furnished for that purpose. The application must be passed upon by the Probate Judge of the county where the dependent resides. If the Probate Judge, after investigation, finds it a case worthy of consideration, he approves the application and the War Preparedness Board immediately commences to pay the relief. That act went into effect practically with the declaration of war and Michigan began to afford relief to dependents of soldiers at once.

Later on a Federal Act was passed which I will say a few words about in a minute, and the attitude of the State changed some. The relief granted by the State now is granted mostly to people who have money coming from the Federal Government who have been kept waiting for it and who expect to wait for it for a month or two at least. In other words, the State is filling in the gap between the time when the soldier goes away to the time his payment comes from

the Government; also in cases where the Federal allotment and allowance does not seem sufficient, the State steps in and makes it up.

Now then, something about the Act of 1917—the so-called War Insurance Bill passed by Congress. There are three features of the bill. The first feature is to provide for the relief of dependents of soldiers. I say I am not going into details on this subject because I think every member of the bar ought to get a copy of that act and read it. But, in general, here is the proposition: A man goes into the service and has a wife and children; he is compelled to allot a portion of his pay to his dependents. The minimum he can allow is fifteen dollars, in other words, he is compelled to pay fifty per cent of his pay to his wife. After that is done the Federal Government pays to his wife another fifteen dollars, so the wife and children get fifteen dollars from the husband and fifteen dollars from the Government, making thirty dollars. These allowances are based upon the number of children. That is the first feature of the bill. It is the great feature of the bill. It means that a man can go into the service knowing that his wife and children to some extent, at least are going to be taken care of while he is gone.

The second feature of the bill that has not been very thoroughly advertised is that it provides compensation for death or disability while in the service. I am not talking about insurance now? It provides compensation in practically the same way that any compensation is paid. I will not give you the amount but will simply say that men disabled in the service will receive compensation which runs as high as a hundred dollars a month for life. The compensation to a man with children depends upon the number of children he has. If discharged from the service the compensation runs on. That act has not been thoroughly advertised and most people confound it with the insurance feature, but it is entirely separate from the insurance the soldier takes out.

MR. WARNER: If discharged from the service does that continue?

MR. PETERMANN: Yes. The bill includes everything practically that any compensation act includes, provides for medical attendance, nursing and that sort of thing.

MR. DIBBLE: Independent of whether he had taken out insurance?

MR. PETERMANN: Yes, sir; absolutely independent of that. The next feature is the insurance feature. The act provides for the granting of insurance by the Government to any officer or enlisted man who applies for it. It can be taken in any sum, but the minimum is a thousand dollars and the maximum ten thousand, but it must be in multiples of five hundred dollars. The Government assumes the extra hazards of the war. Now what I mean by that is where the ordinary insurance companies would charge a soldier an amount that would be prohibitive, a hundred dollars a thousand or more, the United States assumes that extra risk, and charges him a premium so all

the extra cost is cut out. I can give you, as an illustration, about what that insurance costs. Take a man aged twenty-one, he takes out his insurance and pays 65 cents a thousand per month; if he took out ten thousand dollars he would pay \$6.50 a month; a man of forty pays 81 cents a month per thousand.

This insurance is granted of course without a physical examination, simply on application, that is all. Any enlisted man or any officer can obtain this insurance by simply applying for it. Men going into the service have had one physical examination. The insurance runs along during the duration of the war and the bill provides that at any time within five years after peace is declared, at the end of the five years, the insurance may be converted by the soldier into some other form of insurance. He can carry this insurance during the war, then will be permitted to change it to a regular insurance policy, one of the regular forms of insurance and he does not lose what he has paid in. They are also allowed a cash surrender value fixed at the end of the five years. When the war is over he can change his insurance into a regular policy and carry it the rest of his life or cash it in and get his money back.

Now, I said I would not detain you long, but I want you to know the reason why men going into the service ought to know about these things.

Now, there is another act that has been passed and I think approved in March that is known as the "Soldiers and Sailors Civil Rights Act."

In just a few words, it amounts to this: Men going into the service go in quickly these days. It is not a square deal to let them go in and let anybody who stays behind take advantage of their absence, so the Soldiers and Sailors Civil Rights Act assumes to provide that men going into the service shall not be prejudiced in their civil rights. For instance, when a law suit is commenced hereafter in any court the plaintiff is required to file an affidavit to the effect that the defendant is not in the military or naval service of the United States. Hereafter it is the duty of the Court to inquire and find out whether the defendant is in the service of the United States and, if he is, the Court has the power to stay proceedings, or can require the plaintiff to file a bond to indemnify the defendant in case a judgment taken against him is set aside. The main thing is to bring to the attention of the Court that he is in the service. That is the part of the law that calls particularly upon the bar. It should be the pride of every lawyer to see that any proceedings commenced in court against a man in the military service, has the advantage of this act. The act goes further; for instance a man cannot be evicted as a tenant. A man who holds a land contract and has already received part pay on it cannot proceed to foreclose. A man in the service who cannot afford to pay his taxes on account of being in the military service, can file an affidavit to that effect and his taxes will be taken care of until

he comes back. The man in the military service who has an insurance policy, because he is taken out of a five thousand-dollar job and put into a thirty-dollar a month job, cannot pay the premium can make an application to the War Insurance Bureau and upon proper showing the United States Government will take care of the premium until the man gets home to take care of it himself.

Now all these various acts are to provide relief for men going into the service, but avail him nothing unless he knows about them. For instance I have known men to go into the army with a dependent mother who did not know about these government allowances. He goes into the army and does not say anything about his mother, he merely sends home part of his pay, fifteen or twenty dollars that he can spare, and does not know that if he had instructed the government to pay fifteen dollars to his mother, that the government would have taken fifteen dollars more out of the treasury and put with it and sent it to her. He does not know that. A great many men go into the service and do not know anything about insurance.

Now I am going to make a proposition. The United States Army can be equipped with supplies and with guns, but there is another part of the equipment they must have to make good soldiers. They must be equipped with the right mental attitude. That part of the equipment can be given to him before he leaves home. That part of the equipment can be given to him by the bar of the State if they will take the trouble to do it. No soldier can be a good soldier if he is worried about how things are going on at home. There is no soldier who can devote all his time and energy to fighting if he has to think about whether his wife and children are suffering at home, or whether Bill Jones had foreclosed a mortgage against him, or whether his business is gone. He should go into the service a free man and with the one purpose to make a good soldier.

It is up to the bar of Michigan; we will not go beyond this State, this is our State, and the field is big enough so we need not worry about what is going on somewhere else—it is up to the bar of Michigan to see that every soldier who goes into the service is equipped with the right mental attitude.

Here is my concrete proposition to you: We have 41 Legal Advisory Boards in the State of Michigan, one in each circuit except one circuit in the Upper Peninsula. Those Boards consist of three men, the Circuit Judge and two other members of the bar. We have 136 Draft Boards in this State, and there ought to be a committee of lawyers for every draft board in the State. The next thing to do is for every lawyer to get in touch with his Local Advisory Board and get on a committee for his draft board. The next thing they ought to do is to get copies of these acts and read them through so as to be fairly familiar with their provisions. The third thing is to get in touch with the registered men. I do not believe there is a lawyer

in Michigan who would hesitate for a moment to give free legal advice to a registrant or Class 1 man if he would go to a lawyer's office and ask for it.

You can get copies of the acts from me if you want them. I might say that copies of these acts will be sent to the Legal Advisory Boards or to anybody who wants them, and I really want to know whether the lawyers of Michigan are interested enough to ask.

If I send them out broadcast some clerk may throw them in the waste basket. If a man says he wants a copy of those acts I know he is interested enough to read them after he gets them. Up to now the general attitude of the bar has been the old conservative attitude of letting the client come to him. This is a question of where you have got to go to the man. You can't wait for the registrant to come to you because in fifty per cent of the cases he does not know enough to do it. You have to go to the man.

What I want the committee to do is to go to the Local Draft Board and take a list of the men in Class 1 then go to them and talk things over; take an interest in finding out what his problems are and help him out with your advice, explain these acts to him so he will know just what to do when he gets into service. That is my proposition, and it means this, that I want you to explain to them the Selective Service Act. We do not want the men from Michigan to go into the service of the United States feeling that they have not had a square deal. If he has any such feeling find out why he feels so. Show him how the Act applies to him and if you find out and become convinced that there is something wrong in his case take it up, may be he is right, may be he has not had a square deal, if he has not it is up to you to see that he has. The main thing is you must go to him, not wait for him to come to you. Now, that is not asking too much of the bar and I know you will be willing to do it and I know if any man comes to you and asks for advice you will give it.

Organize the bar into a sort of a brotherhood. Taking men out of the home and sending them to the army means a lot to them. They don't know that they will ever get back but they go willingly. I hope the lawyers of Michigan will take some action along these lines. I might tell you of several towns where not a man has gone into the service unless somebody has taken him aside and talked to him like a big brother. Find out his troubles and explain to him everything he wishes to know, so when they go out not a man will have anything to say against the Selective Service Act, he will be positively sure he has gone in properly.

The machinery is all here; it just needs a little action by the members of the bar. I want to ask you to adopt some sort of a concrete program of this kind and put it into operation.

Copies of those two acts can be obtained by writing to the Adjutant General at Lansing.



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## REPORTS OF OFFICERS AND COMMITTEES

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## REPORT OF COMMITTEE ON LEGISLATION AND LAW REFORM.

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To the Officers and Members of the Michigan State Bar Association:

Your Committee on Legislation and Law Reform begs leave to report as follows:

### I.

In relation to Act No. 172 of the Public Acts of 1917, which provides:

"Writs of Error upon any final judgment or determination, where the judgment exceeds the amount of five hundred dollars (\$500), may issue of course out of the Supreme Court in vacation, as well as in term, and shall be returnable to the same court and in all other cases such writ may issue in the discretion of the Supreme Court upon proper application."

In the last report of your committee to the association in June, 1917, it is said:

"Your chairman is unqualifiedly opposed to this statute which leaves to the court the option to review or not to review any case, no matter what principle may be involved. Review should be a matter of right, and not of option, no court of last resort under the guise of judicial discretion should have in its power the right to evade the responsibility of deciding any question, no matter what the amount may be or to elevate money above principle."

Added to the report is a statement that Mr. Cummins of the committee disapproved the position of the chairman in relation to this statute.

Since the last meeting of this association, this act has become operative and the court has promulgated Supreme Court Rule No. 59, which provides:

"Anyone desiring to settle a writ of error under the provisions of Act 172 of the laws of 1917 shall, within thirty days

after the entry of judgment, prepare a concise statement of what is involved in the case, and the points relied upon, and notice the same on the opposite party for settlement before the Circuit Judge. The settlement when so settled, shall be the basis of the application to this court."

The principal argument I have been able to discover in favor of this act is a financial one,—that a monetary consideration should outweigh principle,—that a litigant should be compelled to stultify his conception of right, if the matter involved does not exceed five hundred dollars (\$500), and to disregard what he believes to be his legal duty. If it is good policy to deny appeals where less than five hundred dollars is involved, why should not the statute be extended so that appeals may be denied where the amount involved is less than five thousand or fifty thousand dollars? If there is good reason to deny the right to review a case where the amount involved is less than five hundred dollars, which is wrongly decided; then there is no good reason to appeal a case which involves more than five hundred dollars, which is wrongly decided.

Appellate courts are established to rectify the errors of trial courts,—to do justice between the parties,—to make the decisions of the courts as far as possible, consistent with each other; and if this is the function of the Supreme Court, then there ought to be no arbitrary limitation fixed which determines the right to have a case reviewed.

There has always been the conception of jurists in Anglo-Saxon countries, that every individual has a right to have his case finally determined in accordance with the law and the facts, notwithstanding the holding of the Supreme Court of Michigan that the right of appeal is not a matter of right but of legislative discretion.

The review of cases tried in inferior courts by writ of error was well established before the common law was transplanted to America. Of course, there is a radical distinction between the common law remedy by writ of error and the statutory remedy by appeal, and while it may be true as Stubbs contends, that appeals from court to court originated in Roman jurisprudence, and were later adopted by the English law from the law of Rome, it still remains true that writs of error were known to English jurisprudence long before the discovery of America.

After the Norman conquest it was a state necessity for the King to super-impose Norman institutions upon the Anglo-Saxon peoples living in England. The conqueror and his followers claimed to hold the throne by divine right. The king was regarded as the supreme sovereign head of the nation and the fountain of justice. To give due weight and impression to the importance of the sovereign, the

king, together with the principal ministers and officers of the crown, constituting the King's Court or Curia Regis, prior to Edward I, traveled about the kingdom holding court and administering justice in as many as twenty-four different towns in a single year. The origin of the court of chancery and of writs of error, are the outgrowth of attempts on the part of English litigants to attain justice at its fountain head. As stated by Hughes in "Diversity of Courts and Their Jurisdictions," written during the reign of Henry VIII, and translated into English in 1646, "The king himself for the excellency of his person may sit and give judgment in all causes, personal or real, betwixt party and party." And some of the early English kings did personally hear and determine cases between litigants.

This system of administering justice necessitated suitors following the King's Court from place to place. This proved to be so cumbersome and unsatisfactory that Henry II established the institution of itinerant justices of common pleas, and divided the kingdom into large circuits for the purpose of the delegated exercise of the prerogative jurisdiction. We are told by Lord Coke, that magna carta, by reason of the prior unsatisfactory method of administering justice, and the delay, discomfort, uncertainty and expense of following the King's Court, declared that thereafter courts of common pleas should be held in Westminster Hall. The Curia Regis, or King's Court, of William the Conqueror, after it has exercised its prerogatives for two hundred years, ceased to exist. It was split up into the Court of Chancery; the Court of King's Bench; the Common Pleas and the Exchequer.

Hughes says that the court of King's Bench had authority to reverse judgments given in the common pleas by writ of error, that erroneous judgments given by the Lord Mayor of London might be reversed by special commissioners, and that a writ of error might be directed from the court of King's Bench to the Mayor, to have the proceedings certified up; that erroneous judgments rendered in Ireland by the court of King's Bench could be reviewed by writ of error, and that erroneous judgments rendered in the cinque ports might be reversed in the court of King's Bench.

Pollock and Maitland in their "History of English Law" claimed, like Stubbs, that the right of appeal from court to court was an adaptation of the principle of canon law, which, as early as the twelfth century, had furnished Englishmen with appeals from arch-deacon to bishop, bishop to arch-bishop, and from arch-bishop to Pope. But Inderwich says that the court of King's Bench had exclusive jurisdiction of all appeals from inferior courts although it is evident that what he refers to is a review of the judgments of inferior courts by writ of error.

In the case of the Lord Mayor of London, 3 Wills, 193, Lord Chief

Justice DeGrey said, "In all cases except treason and felony, I think the writ of error is grantable of right," and in *Queen vs. Paty*, 2 Salk 504, it is pointed out that a new question was stated and referred to the judges, whether the Queen ought to allow a writ of error as a matter of right, and ten of the judges were of the opinion that the Queen could not deny the writ of error, but that it was grantable as a matter of right except in cases of treason and felony.

In *Hartshorne vs. Sleght* 3 Johnson 554 Justice, afterwards Chancellor, Kent said, "A writ of error is a writ of right and issues of course at the instance of the party." In *Yates vs. The People* 6 Johnson 363 it is said, "Our court considers it an essential right of a suitor to have his case examined in tribunals superior to those in which he considers himself aggrieved." Blackstone points out that the court of King's Bench keeps all inferior courts within the bounds of their authority, and that this court is likewise a court of appeal, into which may be removed by writ of error, all determinations of the court of common pleas and of all inferior courts of record in England, and to which a writ of error lies also from the court of King's Bench in Ireland.

If parties litigant are to be denied the right to appeal (because that is the object of the statute in question) when their rights are violated; if when a case is wrongly decided, there is no remedy to the parties whose rights have been invaded; if financial considerations are going to determine principles of justice; if we are going to make cash the basis of our jurisprudence, then it seems to me, the proper thing to do is to go one step farther, and enact a statute which will prevent any party from commencing any case which involves less than five hundred dollars. There is, so far as I can see, no principle which tends to sustain the present statute, that would not equally tend to sustain a statute which would deny to any party, any remedy at all, where the amount involved did not exceed five hundred dollars.

If such a statute should be enacted, it certainly would prevent, theoretically at least, the court from being over burdened with cases involving small amounts. It would compel the litigant whose rights were invaded to stultify his ideas of right where monetary considerations were involved, and it would do everything that the statute in question is intended to do, and do it more thoroughly.

The rule established by the Supreme Court requires that the party desiring to appeal shall prepare a concise statement of what is involved in the case and the points relied upon, and notice the same on the opposite party for settlement before the Circuit Judge, and that this statement when so settled by the Circuit Judge shall be the basis of the application to the Supreme Court for the writ of error. Under this statute, it is necessary to prepare a concise statement of

the facts, and of the points of law involved. It is necessary to do everything that is usually done in a bill of exceptions. This must be settled by the court that has tried the case. This motion must practically in many circuits, be made without obtaining a transcript of the testimony. When finally settled and presented to the Supreme Court for its consideration, that court must give it the same careful consideration that it would give it were it up on final hearing on a bill of exceptions. If it does not do so, then the statute must result frequently in misuse and miscarriage of justice.

If this statute aims to reduce the amount of work that is to be done by attorneys or the Supreme Court, it falls short of the object aimed at, because it results in more work upon the part of all of these parties, and more expense to litigants than under the old practice, or else it results in a miscarriage of justice, in a neglect upon the part of the Supreme Court to do its duty, because of its failure to give the statement of alleged facts, and the points involved the consideration which it ought to give to them. The judges of such court must, if they carry out the spirit of the statute, and the rule, not only pass upon, consider and determine the questions presented in the application for the writ of error, but they must again pass upon the questions presented when the case is finally up for final hearing, upon a bill of exceptions.

So far as attorneys are concerned, it results in an increase of their labor, because they must prepare this concise statement of facts and the points involved in the case as something separate and distinct from the bill of exceptions. They must present it to the trial court. They must give notice of its settlement to the opposite party. They must go through the same amount of wrangling in order to get it settled that is usually done in the settlement of a bill of exceptions, and when all this is finally done, the only thing that may be done with it is to prepare a brief to support the positions taken, and to present the same to the supreme court for the allowance of a writ of error. It is then up to the supreme court to examine it and to exercise its discretion, and when all this preliminary red tape has been gone through with, and the court finally determines that a writ of error should issue in the case, then the parties must go back, take the record and prepare a bill of exceptions and assignments of error, and have the bill of exceptions settled, and the writ of error issued from the supreme court in accordance with the usual practice; so that the enactment of this statute results in a doubling up of the work done by attorneys.

The standpoint of the client is much the same as that of the attorneys. The client pays the bills. It is up to the attorneys to do the work. When any statute which attempts to save expense, to thwart justice, and to cut down and simplify procedure, must in-

evitably result either in a denial of justice or in increasing expense and labor, there should be no time lost in relegating it to the "junk heap."

While theoretically the statute and the rule may be workable, anyone who has had experience with this statute has discovered that he cannot agree with the opposing counsel as to what the facts were, and what points were actually involved, and if attempt is made to make such an agreement or come to any such understanding with the opposing counsel, the circuit judge may find and settle the facts against you.

If the circuit judge errs on the trial, he is likely to do everything that he can do to have his position sustained; to persist in the errors which he has already committed. The only way that you can prevent being stated out of court is to go to the expense of getting a transcript of the testimony from the stenographer. You must get this transcript at once. You must have it within the period of thirty days, and there is no provision of the law whereby you can compel the stenographer to furnish the transcript to you in time for the preparation of a statement of what is involved in the case and the points at issue. Even conceding you get the stenographer's record, you have to go to the trouble and expense of preparing from the transcript the statement of what is involved in the case and the points of law relied upon, and are placed in a position where you are compelled to prepare substantially two bills of exceptions instead of one, because the cases are not heard upon this concise statement of what is involved in the case, and the points relied upon, but are only heard upon the bill of exceptions and assignments of error, which come up in the regular way, in cases where the writ is granted.

I am opposed to the general policy of the statute and to its effect upon courts, attorneys, and litigants. If any case is worth trying, it is worth trying properly, and without useless expense and trouble to the litigant and to the attorneys. If a circuit judge, when he tries a case, knows that if he errs in his rulings, there is an opportunity as a matter of right to review his rulings, he is much more likely to keep within the law, and to try the case carefully than he is if he knows that there is little chance of reviewing it. The absolute right to an appeal has a tendency to hold circuit judges within reasonable and proper bounds.

Upon the presentation of the application to the supreme court for a writ of error, no opinion is rendered, and the party is effectually foreclosed from any opportunity to complain or to obtain a review, or to obtain the opinion of the supreme court upon a question of law.

It destroys the salutary effect of the right of appeal to the supreme court upon trial judges. It can only be sustained upon the theory that it prevents litigation, and if it is the object and intent of the

statute to prevent labor by the court in cases involving less than five hundred dollars, then why not go the limit and prevent any litigant commencing any suit or invoking the aid of any court in cases involving less than five hundred dollars. Let us admit at once that we have no proper legal conceptions or juristic conscience; no knowledge of what is right and wrong, that we are mere money grabbers, who place dollars above principle.

It may be argued that the supreme court of the state of Michigan is overworked, that it has so many cases that it is impossible to give them proper consideration. While it is true that in the State of Michigan, there is a considerable amount of litigation, that reaches the supreme court, out of approximately forty thousand criminal cases commenced in the state each year, less than forty of them reach the supreme court of the State, and in all the innumerable cases that are brought involving less than five hundred dollars, very few of these cases reach the circuit court, and of those that reach the circuit court only a small percentage ever get to the supreme court of the State. The denial of appeal as a matter of right to the supreme court in cases involving less than five hundred dollars, rests upon no foundation or theory worthy of consideration, nor is there any foundation for it based upon actual practice or in the fact that the court is overworked. If the supreme court of this State is so overworked it cannot discharge its duty, the remedy lies not in cutting down its duties, but in putting judges on the bench who are willing to do their duty. I think the bar of Michigan will be recreant to its duty if it does not strike down this dangerous encroachment on individual liberty.

## II.

Notwithstanding the legislature refused to pass, at its last session, the bill prepared by your committee, and introduced into both branches thereof, providing for a commission to revise and consolidate the laws relating to corporations, it added substantially to the more than four hundred separate and distinct legislative enactments relating to corporations, an act to provide for the incorporation of grand and subordinate councils of Eskimos; an act to provide for the incorporation of foundations for the promotion of the public welfare; an act to revise the laws providing for the incorporation of protestant Episcopal churches; an act to provide for the incorporation of grand chapters of the order of Eastern Star; an act to amend the title to an act providing for the incorporation of Presbyterian churches; an act to revise the statute for the incorporation of companies for smelting, refining and similar purposes; an act to amend the statute providing for the incorporation of co-operative companies; an act to amend the statute

providing for the incorporation of burial benefit associations, and an act to permit religious societies to receive, hold, use and invest gifts and bequests of money and property.

Although the legislature spent its time and the state's money in adding to the multiplicity of useless, special, corporate acts which could only be applicable in a limited number of cases, and while it was engaged in standardizing many other matters, no attempt was made to simplify or consolidate the statutes providing for the incorporation of and the transaction of business by corporations. The legislature had plenty of time to pass an act to provide for the branding of mattresses and comforts; to standardize climax grape baskets; to fix a standard for apples; to prescribe what should constitute a standard barrel for fruits and vegetables; to standardize commercial food stuffs; to regulate cold storage plants and slaughter houses; and to make sanitary regulations for the shipping of dressed meats. While these things are not criticized, attention is called to them only to show that while they were regarded as important to the legislature, that a matter of infinitely greater importance upon which the industrial prosperity of the State largely depends, was not regarded as of sufficient magnitude to attract their attention.

The thing which must strike the observer at once who examines the corporation statutes of Michigan, is the chaotic condition of our legislation. We have statutes overlapping, supplementing, modifying and in some cases actually though impliedly repealing each other, all jumbled together with hardly a pretense of scientific arrangement. It is difficult to imagine a more heterogeneous mass of disjointed statutory enactments than those that make up the corporation law of the State of Michigan. A mere glance at the list of separate corporation laws, providing for the organization of different institutions will demonstrate that at least all of the associations of each class should be compelled to incorporate under one law, broad and comprehensive enough, to permit it, and that the statute books of this state ought not to be lumbered up with so many illy-considered variant laws.

Professor Wigmore discussing proving corporate action in Michigan, says that the statutes of this jurisdiction reach the culmination of crude superfluity. As stated in our last report:

"He points out that these statutes with their tedious multiplicity of repetition are, for the most part, vain and harmful and a printed monument to the folly of excessive and thoughtless legislation; that they profusely repeat, with culpable forgetfulness what is already the law by express general statute; that they not only add to the impedimenta of the profession and make necessary the mastery of multifarious, petty learning, but they also provide in many instances inconsistent formalities of

authentication for evidence which would equally well be subjected to a uniform simple rule."

Your committee is of the opinion that a revision and consolidation of the corporation laws of this State ought to be brought about, either by the passage of an act similar to that prepared and introduced by your committee in the last session of the Legislature, or in some other way. Your committee believes that such movement has not only the support of the profession, the support of lay men who are familiar with the situation, but that it is a thing to be desired because it is right. It was approved by the Governor, recommended by him in his initial message to the legislature, and we believe this or a similar statute ought to be enacted into law.

### III.

It is highly important that courts be above suspicion and reproach. It is important to every litigant that his case is properly determined by an unprejudiced tribunal; but it is more important to the general public and to the good of the government that courts continue to enjoy an elevated rank in the estimation of mankind. They will only continue to do so when the judges thereof conduct themselves within honesty and dignity. In all the realms of jurisprudence, in all the varied relations of life, one who occupies a relation of trust and confidence is forbidden to act where duty is opposed to interest, fidelity to cupidity, integrity to personal gain. No more sacred trust is known than that incumbent upon judges of trial courts. They are the constituted guardians of the life, liberty and property of citizens, to protect which this government was instituted. All trial judges are therefore forbidden by the fundamental principles of common law, which lie back of all legislative enactments, to act or to attempt to act judicially in cases in which they have a personal interest. These principles apply not only to courts, but to all other boards and bodies which exercise or attempt to exercise judicial functions. It is not important that the party so acting is not a party of record. The disqualifying interest may be remote and not clearly defined. It is no excuse for the violation of this fundamental rule that the statute provides in broad and comprehensive terms for the exercise of judicial functions by an executive board, or a judicial officer; the principle still remains operative and constitutes in and of itself a tacit exception to the general words of the legislative grant. If no other tribunal has been created by the legislature to exercise the judicial functions in cases where the judge is interested, that does not authorize him to act judicially in his own case, but the remedy is with

the legislative or creating body, to correct the oversight and provide a tribunal for the determination of questions where the judge is disqualified.

It is settled by the law of this State that the acts of a judicial officer in any cause in which he has an interest are without judicial sanction. He does not act judicially but prejudicially. His acts are wholly without judicial sanction, void for want of jurisdiction, and no more operative than as if the bench were vacant. In fact, the judges seat in a judicial sense is vacant. But suppose the trial court has an actual interest. Suppose that when he is passing upon and judicially determining a cause, he is peculiarly interested, and suppose that the litigants who are trying the case, or at least one of them, has no knowledge of the disqualifying interest of the trial judge, and that the case passes to a final judgment, and let us suppose that under the guise of this sort of judicial usurpation the money of a litigant is taken from him. While it is true that his money may have been taken from him illegally, while it may be true that the court has perpetrated robbery under the form of law, though it may be that the trial judge has hid his official crookedness behind the cloak of judicial ermine, there is no adequate remedy in this State after final judgment which has been settled for any individual whose rights have been invaded, and who has been robbed of his property and plundered under the guise of judicial action. It is because of this situation that at the last meeting of this association, your committee recommended the passage of a statute in this State to provide that any judge or judicial officer who shall knowingly perform or attempt to perform any judicial act or function in any civil or criminal proceeding in which such judge or judicial officer is directly or indirectly interested, shall be deemed guilty of a felony, shall be removed from office and be perpetually disbarred thereafter from the practice of the law.

In that report we said:

"Certainly the practice of judges and judicial officers acting in cases in which they have an interest is not only growing more prevalent but it is an outrage committed under the guise of judicial sanction, a prostitution of a power granted upon a sacred trust to private purposes, tending to bring all courts into contempt for the wrongs of those who thus violate the most elementary principles of right.

Why wink at judicial corruption? Why not speak out that the judiciary may be purged of men who disgrace it? The profession of law will thereby be elevated in the estimation of mankind, and no honest judge need have fear."

The principles above declared being admittedly sound. Why should this association pass over as unworthy of consideration, the advocacy

of a statute which will enable the law to protect litigants in future cases from the sacrifice of right, the elevation and sanctification of wrong, and which will bring to justice those criminals most dangerous to society?

#### IV.

Your committee acting upon the suggestions made in the report of the special committee on criminal law and procedure made at the meeting at Battle Creek in 1916, caused to be prepared and introduced into the last session of the legislature, a bill to authorize arrests in certain cases under like circumstances as for a felony, and when that bill was defeated, it caused a substitute therefor to be prepared, to authorize arrests without a warrant for the commission of offenses in the presence of certain officers, which likewise failed to pass.

In our last report the belief was expressed that the original bill should have been enacted into law. The reasons which impelled the preparation of the original bill, and the substitute, and which caused your committee to support the enactment of these bills, are substantially as follows:

(a) When any offense is committed in the actual presence of an officer, while the officer is actually looking at the act, or perhaps watching the movements of the offender, there exists no reason why the violator ought not to be at once taken into custody. Under the present state of our law, the officer, if he does arrest an offender for offences committed in his presence, except in cases involving a breach of the peace, or of felony, acts illegally without color of right, and at his peril, in making the arrest, although in practice the public expect police officers to arrest in such cases, and undoubtedly a police officer would be severely criticized, if not dismissed from the service, if he failed to do so. It seems clear that police officers should have the right to arrest for violations of law committed in their presence.

Under the present statute, the officer may be an eye witness to misdemeanors, offenses of like grade, yet he has no right to arrest the offender for an offense of this kind, committed in his presence, until he has found a justice of the peace, or other officer having the authority to issue a warrant, made a complaint, obtained a warrant from that officer and again found the offender, who, in the meantime, has had plenty of opportunity to get under cover. It seems to us to be a reproach on the law, that police officers are not given this authority.

(b) If an offense is serious enough to be triable in the circuit court, we think an arrest should be permitted without a warrant under like circumstances as for a felony, even though the offense is technically not a felony. In other words, there is no practical distinc-

tion at the present time, between those cases which are felonies and those which are not. The line of demarkation under our criminal procedure, ought to be whether the case is triable in justices court or in the circuit court. If all cases triable in justices court were denominated misdemeanors, and all cases triable in the circuit court felonies, it would be such a division as would be more consistent with our criminal practice.

(c) After a complaint has been made to any magistrate, and he has considered that complaint, and authorized the issuance of a warrant, and has actually issued the same, we believe that any police officer in the State ought to be authorized to arrest the accused without being obliged to obtain the personal possession of the warrant as now required, in case of misdemeanors, not breaches of the peace. At the present time, arrest without warrant may be made in cases of suspected felony, and in cases of breach of the peace, but there is no authority for any officer to arrest any person for a misdemeanor, not a breach of the peace, without the actual possession of the warrant. If the warrant has been issued, and delivered to the possession of one officer, there is no reason why the accused ought not to be held by any officer who may pick him up. The necessity for this sort of remedial legislation is made much more apparent by reason of the means of rapid transportation by train, trolley cars and automobiles. Certainly no right of the accused is infringed if he is arrested by the first officer who can apprehend him after a warrant is issued. For these reasons, your committee believes that the original bill which was prepared by your committee should have been enacted into law. That bill was as follows:

"A bill to authorize arrests in certain cases under like circumstances as for felony.

*The People of the State of Michigan enact:*

Section 1. Any sheriff, under sheriff, deputy sheriff, constable, marshal, or police officer may, under like circumstances, as in the case of a felony, arrest without warrant, any person for the commission of any offense in the presence of such officer, or for the commission of any offense triable in a court of record, or any person for whom a warrant has been issued by any magistrate of this state."

## V.

The present constitution of this state permits cities and villages to acquire, own and operate without their corporate limits, public utilities for supplying water, light, heat, power and transportation, to the municipality and the inhabitants thereof. It permits such cities

and villages to sell and deliver water, heat, power and light without its corporate limits to an amount not to exceed twenty-five per cent of that furnished within its corporate limits. Under the law in this State, such municipally owned public utilities, may sell their products to private individuals in direct competition with privately owned public service corporations. In addition to these public utilities, cities and villages, may acquire, own and establish outside of their corporate limits, parks, boulevards, cemeteries, hospitals and all other works deemed requisite necessary or essential to the public health and safety of the municipality.

Under the powers thus conferred upon cities and villages by the constitution and laws of the State, many cities and villages have acquired property outside the limits of their jurisdiction for water works, sewage farms, electric lighting plants, hospitals and other public purposes. Those municipalities having electric light plants thus situated are permitted, under the constitution, to sell and dispose of for private purposes a part of the electrical energy generated in these municipal plants. Serious attempts have been made to reach by taxation outlying municipal property by the municipalities in which the property lies. There were so many of these attempts made at the last session of the legislature that a resolution was passed providing for a commission to be appointed by the Governor to consider the question of the exemption of municipal property thus owned and situated from taxation. This commission, I assume, is supposed to take into consideration the whole scheme of taxation so far as property of this character is concerned, how far it should be permitted to be exempt, how its taxation should be limited, and this commission would, I am sure, welcome any suggestions from the profession, or from other persons that would aid them in the proper solution of this problem.

## VI.

The railroads, interurban lines and other public utilities, have become an essential part of our national life. The Federal Government has assumed control of the utilities directly engaged in transportation, has placed rates on levels which permit their operation without loss and has centralized control. The war has given rise to unusual conditions arising from the greatly increased cost of fuel and labor, and has cast upon public utilities unforeseen burdens which have impaired their credit, and jeopardized their ability to adequately serve the public. After a thorough investigation, the controller of the currency, the Secretary of the Treasury, and the President of the United States have all joined in an open letter requesting rate commissions, local councils and other public governing bodies

to carefully investigate the demands of these utilities and to grant relief where needed. The great majority of American states, including the other four carved out of the northwest territory, have rate commissions clothed with power and authority to adequately deal with this subject. The Michigan Railroad Commission is limited in this respect to intra-state freight rates, telephone and power rates. They have no control at all over gas rates, and very limited control over the rates charged by companies furnishing electrical energy. We believe that the railroad commission or some similar body, should have general supervisory and rate making power over all public utilities. That it should have the power not only to prevent exorbitant rates being charged to consumers by the companies, but should have the power and authority in cases of dispute to fix rates which will at least adequately compensate the utilities for operating costs and expenses.

## VII.

At the last meeting of this association, your committee closed its report with the expression of a hope that some method might be devised of speeding up the publication of the Michigan Reports, which, at that time had been brought down to January 3, 1916. At that meeting, a committee consisting of Judge Willis B. Perkins, of Grand Rapids, and others, was appointed to bring this subject to the supreme court's attention. Later the supreme court entered an order providing for official advance sheets. The reporter's office were to proceed to edit the opinions with the official head notes as soon as the opinions are handed down.

The publication of advanced sheets commenced by Callaghan & Company, of Chicago, April 12, 1918, promises to furnish the relief sought. These publications begin with Volume 200, part 1, and have now extended to Volume 201. In the meantime, the old published reports are lagging behind as usual, Volume 194 being the last that has been delivered to the profession. Volumes 195 to 199 inclusive, have not yet been delivered, but it is hoped that this gap in the reports may soon be filled, and that the profession will be relieved from the necessity of purchasing duplicate sets of the opinions of the court, or of being a year or two behind in the reported decisions.

All of which is respectfully submitted.

W. W. POTTER,  
Chairman.

## REPORT OF COMMITTEE ON GRIEVANCES.

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To the Michigan State Bar Association.

Gentlemen:—

Your Committee on Grievances respectfully submits the following report:

I.

During the year 1917 and prior to the last annual meeting of this association, a petition was filed in the Circuit Court for the County of Otsego, by the chairman of the Committee on Grievances, asking for the suspension or disbarment of John M. Rhoades, an attorney at law of Gaylord, Otsego County, for professional misconduct in the trial of the cause of Henry Shields as plaintiff, against the Patrons Mutual Fire Insurance Company, Limited, as defendant, and a similar petition was filed against William H. Harrington, for professional misconduct in the same case. These proceedings were pending when your committee made its last annual report to this association and are the same proceedings referred to therein. These petitions were brought on to be heard on the 30th day of July, 1917, before the Hon. Howard Wiest, sitting in the Circuit Court of Otsego County, and both respondents found guilty of professional misconduct as charged in the petitions and on the 31st day of July, 1917, both respondents were suspended from practicing the profession of the law in any of the Courts of the State of Michigan for a period of six (6) months from the date of the sentence.

II.

Since the trial and conviction of these two attorneys the complaints referred to this committee during the balance of the year have been noticeably fewer in number. A limited number of complaints have been received from forwarding agencies, but nothing of sufficient importance to warrant the taking of any action by your committee.

Respectfully submitted,

CLAUDE S. CARNEY,  
Chairman.

## REPORT OF COMMITTEE ON MEMBERSHIP.

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To the Officers and Members of the Michigan State Bar Association:

Your Committee on Membership has the honor of reporting a gain of 104 new members since the last annual meeting of this Association. When it is remembered that the last twelve months have covered a formative period in our Country's war activities, plus the fact that many of the younger members of the bar have entered, or expect to enter, the National service, we trust that the results gained may be accepted as satisfactory.

During the past year we have not made a special drive for membership. In view of the public duties assigned to the bar by the government, it did not seem proper to attempt to impose upon our members any new task unrelated to war work. Nevertheless, it has been the happy experience of this Committee that Michigan lawyers are now seeking membership in this Association, not because of the urgency of the invitation, but for the reason that they desire to participate in the organized activities for which this Association stands.

Respectfully submitted,

VERNER W. MAIN,  
HARRY A. SILSBEE,  
Committee.

## REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

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To the Officers and Members of the Michigan State Bar Association:

### EFFECT OF THE WAR ON LAW SCHOOLS.

The factor of outstanding importance in legal education during the past year has been, of course, the great War and its far-reaching consequences. The events of the year have confirmed all that was said by your committee last year as to the patriotic attitude of the members of the bar and of those preparing to join the bar by study in the law schools. Long before the call under the Conscription Act had summoned them, hundreds of young lawyers from all parts of the state and, of course, of the country, rushed to the colors. The exodus from the law schools was extraordinary. Throughout the country the better law schools—those requiring a reasonable amount of preliminary education for admission and asking for practically the full time of the student during the law school period—have suffered in far greater proportion than any of the other schools or colleges connected with our great universities. This is due to a number of factors: (1) That the students in law schools requiring two or more years of college education for admission are practically all of the military age; (2) that law students are not exempt by reason of technical training, as to the same extent has been true of medical, engineering, and certain other technical students; (3) and not by any means least, to the fact that as was the case during the Civil War, lawyers and law students have shown themselves possessed of the highest spirit of patriotism and of the courage and dash which has led them to get as near to the front as possible. Thus we find that the law school of the University of Michigan has lost about two-thirds of its normal attendance by the withdrawal of its students to go into the National Service. The loss has not been far from this in any one of the great law schools of the country. Schools with lower requirements, whose membership is made up therefore of younger men and of men of less economic independence, have not lost in such high degree. This, of course, is a serious situation in some of its aspects. It means that for a few years the stream of new men coming into the law will be seriously diminished, and especially as to the very type of men who will be most needed in the period to follow the war. It will be pretty generally conceded, we believe, that it is regrettable that the diminu-

tion in the numbers of men going to the bar during the period of the war and immediately thereafter should be due chiefly to the dropping out of those men whose general education and whose legal training has been of the more thorough kind.

This loss by no means will be made entirely good by the subsequent return to the bar of the men who have gone to the front. For it is all too certain that many of these brave men will make the supreme and final sacrifice in defense of their country and of civilization. And of those who survive many will be tempted to remain in the army or navy or to go into executive or commercial work along lines with which they have had contacts during the war. On the other hand, while to prophesy would be foolish, it would seem that the demand for able legal service must be greater after the war than for many years before. There will, of course, be times of commercial and industrial depression which will have a reflex action upon the bar. But these probably will be but temporary periods. The great movement will be in the direction of rehabilitating business, commerce and industry of all kinds. There must inevitably be a vast number of new enterprises requiring legal service of a high order. An enormous amount of litigation growing out of war contracts is sure to follow. No one can say whether the railroads and other public utilities already taken over by the Government, or destined soon to be so taken, ever will be returned to purely private ownership and control. But a great deal of the business of the country, now practically directed by the Government, will, so far as we can foresee, return into private hands. This process in itself will require professional legal skill of a high order.

In this state of things it would seem that the younger members of the bar are likely to be able to command compensation more nearly in accordance with their deserts than has been possible for many years. In fact the conditions already alluded to, aided no doubt by the recognized higher costs of living, have already forced up the salaries offered to men just graduating from the law schools. It is not too much to say that firms in the larger cities throughout the country are today offering for men, just graduating from the law schools, from two to three or four times higher salaries than were available two years ago.

#### OPPORTUNITY FOR WOMEN AT THE BAR.

In this connection one is led to wonder if women will not find the road to the bar wider and more attractive than it has been heretofore. Almost certainly we shall see this tendency. Indeed there has already been a small but material increase in the number of women students in the law schools.

The reports which have come to your committee from many parts of the country indicate that the bar is already sadly depleted of its younger members and that recourse has already been had by the larger offices to the employment of women for briefing work and other legal employment. Both in England and in America, to say nothing of other countries, women since the outbreak of the war have demonstrated their ability to do a great many kinds of work for which they had formerly been deemed unsuited. Unquestionably they can perform valuable services in investigating law questions, in looking after probate and other estate matters, and in performing indeed most of the work, except perhaps trial work, which comes to the lawyer's office. It would therefore seem appropriate that this Association and the Law Schools of the State should encourage women to consider taking up the study of law and to make the way as smooth and favorable for them in this pursuit as possible.

#### LAW SCHOOLS AND STUDENTS IN THE ARMY.

The bar and the law schools also have a duty to perform at least in attempting to plan for the large number of men now in the army or other branches of the National Service, who had begun the study of law or who were about to take it up. So far as one can see, the war is likely to last some years yet, and unquestionably the period of demobilization will add another year or two after the war is ended. Some plans for the employment and education of the men in the armies in Europe during the period of demobilization are already under consideration by the Government, as we are informed. Ought we not as members of this bar to give thought to the problem of these young men from our own State? It may well be that some plan for continuing the legal education of these men during the period of demobilization—a plan which shall take account of their difficulties and yet preserve the essentials of a sound legal training—may be thought out. Your Committee would therefore respectfully suggest that a special committee of three or five men be appointed by the President to consider this problem and to report specially, or at the next meeting.

#### CHANGES IN LEGAL AND POLITICAL INSTITUTIONS CAUSED BY THE WAR.

It is impossible that we should return to the same old world after the war is over. Society cannot possibly endure such tremendous and terrible convulsions as it is now experiencing and emerge unchanged. It is a matter of striking and arresting attention that thoughtful men, whether they be writing books, or papers for the

more serious magazines, or whether as soldiers in the trenches at the front they are writing home, recur again and again to the thought that war will produce great changes in our social structure. There will be a momentary period of reaction, but on the whole the general tendency must be profoundly and deeply in the direction of a more complete democratization and socializing of all civilized nations. It is likely that the United States will change as little as any of the great nations involved, because after all that may be said as to our conservative tendencies in the last few decades we have advanced at least as far, political, social and industrial institutions all considered, as any other nation. But we, too, are certain to be profoundly affected by this great struggle.

The tendency to government control and operation of the railways and other public utilities has already been referred to. We may look for a rapid extension of this movement and the consequent swift growth of administrative law through the creation and operation of administrative tribunals and officers of all kinds. We are all of us coming to realize more and more deeply that the welfare of all is bound up in the welfare of each; that labor and capital must co-operate and not compete. Unquestionably labor will demand and receive not only greater returns for its work, but a greater share in the operation and management of business and industries of all kinds. The whole law relating to industrial strife—strikes, lockouts and boycotts—must be reexamined in the light of new conditions.

#### DUTY OF LAW SCHOOLS TO TRAIN STUDENTS IN NEW LEGAL DEVELOPMENTS.

All this means that the law must be adjusted to an increasingly socialized viewpoint and that the law schools must be alert to develop courses which will aid in the sound study of these new situations and the intelligent preparation of men to cope with them at the bar. Administrative law must be studied, not from the European, continental viewpoint, but from that of American institutions developing in their own characteristic way. Our administrative law must never be allowed to take shape as a thing apart from the common law. It would be a great calamity if we were to permit the growth of bureaucracies in this country, governed and limited only by law peculiar to themselves. Unquestionably we shall see a vast increase of administrative law, but it must be a law fundamentally determined, limited and controlled by the great principles of the Anglo-American common law. It is important that the law schools of America meet this demand with intelligence and with a carefully thought out program in harmony with the newer conditions.

Constitutional law, which has experienced an enormous expansion and, as some are inclined to believe, radical changes during the last thirty or forty years, is destined to undergo even more important changes in the near future. It is highly important that careful instruction, adapted to the conditions which will follow the war, and which shall yet cling to the settled principles of our constitutional development, shall be offered in the law schools of the country.

#### THE STATE BOARD OF LAW EXAMINERS.

Our Board of Law Examiners, entrusted with a task always difficult and important, are facing even more complex and delicate tasks because of the conditions produced by the war. It is important beyond anything else in our profession that the advance in standards of admission to the bar, both in relation to general education and legal training, should not be lost during the abnormal conditions now existing. In this State we have pushed ahead slowly but steadily to moderate and reasonable requirements and qualifications for the privilege of performing the important functions of the lawyer.

Many would like to see these requirements still farther advanced, but at least we may all unite in the firm determination that the ground already won shall not be lost through any lack of care on our part, or through any confusion of thinking. If it is important in ordinary times that the lawyer shall go to his quasi-public and always extremely important functions with at least the modicum of training now generally required, it is still more important that that standard of qualifications shall be maintained for the period of reconstruction of society in all of its aspects, which is certainly immediately before us.

On the other hand, the sympathy and good wishes of us all go out to those brave young men who have gone to the front and who are there standing between us, our institutions and our country on the one hand, and an enemy entertaining totally different political and legal ideas, and apparently given over to a conception of ruthless power, devouring militarism, and despotic government, which are hostile to most of the great principles upon which our whole national structure rests. We must see to it that these men shall not sacrifice more than is absolutely necessary. Their leaving their studies and going to the line of danger should not make their admission to the bar more difficult than it would have been before.

These are the superficially opposed general conditions which our Board of Examiners must take into account and harmonize into some policy and rules of action which shall be just to the great and permanent interests which it is their duty to guard, and just and sympathetic also to our heroic young men. Fortunately, our Board

has given anxious thought to this problem from the time of our entry into the war, and we are glad to say emphatically that we believe they have worked out a sound policy, which on the one hand insists upon the retention of our general standards, and on the other is distinctly and deeply sympathetic with these men. This portion of our report is written without the knowledge of any member of the Board of Law Examiners and it may therefore be said without embarrassment that the committee knows of its own knowledge that the Board has gone to great personal inconvenience and trouble, and in the finest spirit of sympathy to deal with the cases of these young soldiers and sailors. We have every confidence that they have dealt in the past, and will continue to deal with the situation with judgment, justice and generous appreciation.

During the year the Board has examined 110 applicants for admission, of which total it has issued certificates to 91 persons and has rejected 19. The Board has examined the applications of eleven non-resident attorneys for admission to the Michigan bar, and has recommended the granting of certificates to seven of this number and has denied recommendation to two. The other two applications are still pending.

The Board has received and filed eighteen notices of intention to begin the study of law, of which number six show completed proofs of general education and twelve are still incomplete. The following statement is made by the Secretary of the Board, Mr. Charles W. Nichols, of Lansing, regarding the examinations held during the year:

"In August, 1917, the Board held a special examination for students who had enlisted in the Government service. Fourteen took this examination.

"At the April, 1918, session, we gave permission to 15 students who had not completed their college work, but who were subject to draft and who were liable to be called before such work could be completed, to take the bar examination with the understanding that their papers should not be finally passed upon by the Board until they had furnished proof of their entry into the Government service and of their graduation from the College which they were attending.

"The Board appreciates that we are at war, and are doing everything we consistently can to help the students to an examination before their entry into service."

HENRY M. BATES,  
CHARLES W. NICHOLS,  
ROGER C. BUTTERFIELD,  
HENRY E. BODMAN,  
BERNARD J. OWEN,

Committee on Legal Education and Admission to the Bar.

## REPORT OF THE JUDGE FLETCHER COMMITTEE.

Your Committee on the Recovery of the Remains of Chief Justice William A. Fletcher, and the proper reinterment, beg to report as follows:

Under the Constitution of 1835, by appointment of Governor Stevens P. Mason, the first Chief Justice of the Supreme Court was William A. Fletcher, who presided until 1842 when he resigned, to be succeeded by Alpheus Felch.

When he died in 1853 at Ann Arbor, he was buried in the local township cemetery in an iron casket. The cemetery being subsequently vacated, the bodies were removed to Forest Hill Cemetery, and it became Felch Park. This distinguished grave had no monument, not even a mound, and the burial place no plat. It was forgotten, uncared for, and not even sought for fifty years.

Eighteen years ago, the chance digging for a water main across the park found in this way a strange iron coffin which they pushed aside and covered, without knowing it contained all that remained of him who laid the foundations of Michigan decisions on questions of law, the first Chief Justice.

However, the unusual metal box excited the curiosity of the Superintendent, Mr. Titus Hutzel, whose mother was one of the early pioneers, and who remembered the burial of the Judge as well as of all the people of the village going to see the funeral. Affidavits have been made to these facts.

Acting with a committee of the Michigan Historical Society the chairman of your committee engaged Mr. Hutzel to find the casket which was done after several days diligent search. It was in the center of the park.

On the 21st of May, 1918, in the presence of Mr. Hutzel, Julius Gurber and M. E. Easterly, diggers, R. A. Dolph, the undertaker, Junius E. Beal and Byron A. Finney, of the Michigan Historical Society, and other witnesses, we transferred the remains in the original casket to the vault of Forest Hill Cemetery, where subsequently Judge Fletcher was buried in block nine, donated by the Cemetery Association for this purpose. It is a fine location in a triangle, so situated that no other grave is adjoining.

The expenses have been paid by the Michigan Historical Commission, Mr. Hutzel and the undertaker, Mr. Dolph, donating their personal services.

The casket was opened and the features plainly recognized through the glass cover. He was dressed in a large white neck cloth, frilled shirt front and ceremonial coat. A rather small man, with perfect teeth.

For this first Chief Justice whose clear decisions marked out the earliest paths in the new country, and who first codified and made a digest of all the territorial as well as the new State laws, we should now see to it that some suitable permanent mark be erected. It may not be a tall shaft that would topple over in eighty years, but some simple block, perhaps with bronze tablet. We believe this should be done by the Michigan Bar Association, and we recommend that a committee be appointed with that end in view.

A similar committee has been appointed by the Michigan Historical Committee which may act with our committee, if we desire.

M. J. CAVANAUGH,  
EDWARD CAHILL,  
FRANK B. DEVINE,  
Committee.

I am indebted to Hon. Junius E. Beal, Regent of the University of Michigan, and a member of the Historical Commission, for the formation and drafting of this Report.

## REPORT OF COMMITTEE ON LOCAL BAR ASSOCIATIONS.

To the Michigan State Bar Association:—

Your Committee on Local Bar Associations begs leave to report as follows:

Last year the President of the Association inaugurated a plan of organizing a local bar association in each of the various judicial circuits throughout the state where no such organization then existed and of rejuvenating those associations which had become quiescent in their operations. As a result of his efforts this committee was able to report that in twenty-five circuits there existed live active bar associations, most of which had done splendid work during the year along social, literary and civic lines.

On the 23rd of May, last, and again on the 19th day of June your committee addressed letters to the chairman of the local committees of the different circuits requesting reports as to the doings of their respective associations during the present year.

At the time of the preparation of this statement your committee has received reports from the local associations of the following circuits: First, third, sixth, eighth, ninth, eleventh, fourteenth, sixteenth, nineteenth, twentieth, twenty-first, twenty-third, twenty-sixth, twenty-ninth, thirtieth, thirty-first, thirty-sixth, thirty-seventh, thirty-ninth and fortieth.

While we regret our inability to report active organizations in all of the judicial circuits of the state, the result of the year's work is very gratifying to the committee when we consider the unsettled and constantly changing conditions of the country at large which affects the legal fraternity quite as materially as it affects any other class of our citizens:

I shall not attempt to read the reports received nor to comment on them further than to say that their most inspiring feature relates to the patriotic services rendered and being rendered our country and its cause by the Bench and the Bar throughout the state. As an illustration of this permit me to read in part the report of Asher L. Cornelius, Secretary of the Lawyers' Club of Detroit:

"I cannot conclude this report without referring to those sixty or more members of the Lawyers' Club of Detroit in the military service. In the great and special work which they are now doing, in the cause

of Democracy for the entire civilized world, and in defending our homes and firesides, they have not only covered themselves with honor, but have honored this Organization and the community as well. I should like to mention them all specifically because we as lawyers know their service to the Nation and to us as well, has meant the sacrifice and utter ruination of their professional practice; but I am going to make special mention to two lawyers because they are so well known and their example strikes us all with such special and stimulating force.

These men are Lieutenant Edwin Denby and Capt. John Faust. Of Edwin Denby's splendid example in voluntary enlisting in the Marines, a man over the age of 40 years, who had attained a commanding position in the community, I need say but little, as the entire city was electrified by his splendid example of patriotism, at the time of his enlistment. But not so many know that our President, Capt. John Faust, a man near the age of 40 years, utterly immune from any criticism if he did not enter the Military Service, gave up his professional practice, which had just reached a point where his character, industry and ability was being recognized by large returns from his profession, and voluntarily entered the Military Service, not in some capacity which would be soft and easy for him, but actually on the fighting line in France.

It is such examples as these which we are proud to say the Bar of Detroit has furnished to the community and to the Nation. How pitifully and how painfully do some of those so-called Americans compare, who, when called upon by their country in the hour of need, use every possible evasion to escape bearing arms or rendering Military Service in defense of their country.

I am very proud to say that these members of this Organization have conferred upon it by their conduct, an undying honor."

What is true of the Lawyers' Club of Detroit is equally true of all other Bar Associations throughout the State of Michigan. To every call of the President for help the Bench and the Bar of this state have made a ready and enthusiastic response, often at great personal sacrifice, but always with a devotion which heeds the call of patriotic duty first.

Respectfully submitted,

HENRY F. JACOBS,  
Chairman Committee on Local Bar Associations.

## REPORTS OF JUDICIAL CIRCUIT CHAIRMEN OF BAR ASSOCIATIONS COMMITTEE.

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### FOURTH JUDICIAL CIRCUIT.

#### County of Jackson.

##### Jackson Bar Association.

Enoch Bancker, of Jackson.....	President
Lyman Trumbul, of Jackson.....	Vice-President
Fred McGraw, of Jackson.....	Secretary
N. E. Bailey, of Jackson.....	Treasurer

#### Condensed Report.

Thirty members. Hold annual meetings and some special meetings.  
No fixed program. Excellent field for constructive work.

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### FIFTH JUDICIAL CIRCUIT.

#### Counties of Barry and Eaton.

##### Barry County Bar Association.

John M. Gould, of Hastings.....	President
Arthur Kidder, of Nashville.....	Vice-President
M. F. Jordan, of Middleville.....	Secretary
M. F. Jordan, of Middleville.....	Treasurer

#### Condensed Report.

Annual meeting held at Gun Lake, attended by members and county officers. Hold meetings infrequently during year. No stated program, except at annual meeting. 20 members. Fine spirit of professional comity prevails.

**PROCEEDINGS OF  
SIXTH JUDICIAL CIRCUIT.**

County of Oakland.

Oakland Bar Association.

Aaron Perry, of Pontiac.....	President
George A. Sutton, of Pontiac.....	Secretary
Frank L. Covert, of Pontiac.....	Treasurer

Condensed Report.

No stated meetings or prearranged program. Members meet at least once yearly, usually for the purpose of giving a complimentary dinner to some older member of the bar. Twenty-five members. Excellent opportunity for development of vigorous, working organization.

**EIGHTH JUDICIAL CIRCUIT.**

Counties of Ionia and Montcalm.

Ionia County Bar Association.

Frank C. Miller, of Ionia.....	President
Alfred R. Locke, of Ionia.....	Vice-President
J. C. Watt, of Ionia.....	Secretary
J. C. Watt, of Ionia.....	Treasurer

Condensed Report.

Reorganized in 1916. Expect to hold regular meetings with prearranged annual program 1917-1918. Excellent prospect.

**NINTH JUDICIAL CIRCUIT.**

County of Kalamazoo.

Kalamazoo County Bar Association.

Harry C. Howard, of Kalamazoo.....	President
John W. Adams, of Kalamazoo.....	Vice-President
Charles L. Dibble, of Kalamazoo.....	Secretary
Stephen H. Wattles, of Kalamazoo.....	Treasurer

## Condensed Report.

Inactive. Fifty members. Gradually merging into Barrister's Club, a younger organization.

## Barrister's Club of Kalamazoo County.

William L. Fitzgerald, of Kalamazoo.....President  
 Robert L. Campbell, of Kalamazoo.....Vice-President  
 Don B. Sharpe, of Kalamazoo.....Sec'y-Treasurer

Active. Twenty-five members. Meetings held monthly from October to May, inclusive. Legal questions discussed, addresses and papers on timely subjects given. Meetings well attended, instructive and enjoyable. Bars of neighboring counties are occasionally invited and entertained. A spirit of helpfulness and friendliness prevails.

## TENTH JUDICIAL CIRCUIT.

## County of Saginaw.

## Saginaw County Bar Association.

Frank A. Rockwith, of Saginaw.....President  
 Bird Vincent, of Saginaw.....Vice-President  
 George M. Humphrey, of Saginaw.....Secretary  
 John Hopkins, of Saginaw.....Treasurer

## Condensed Report.

Meets on call of President, but infrequently. No prearranged program for year. Social rather than educational. Sixty-four members. Excellent opportunity for development into vigorous organization.

## TWELFTH JUDICIAL CIRCUIT.

## Counties of Baraga, Houghton and Keweenaw.

## Houghton County Bar Association.

Jeremiah T. Finnegan, of Houghton.....President  
 Joseph F. Hambitzer, of Houghton.....Vice-President  
 Albert E. Petermann, of Calumet.....Secretary  
 Albert E. Petermann, of Calumet.....Treasurer

## PROCEEDINGS OF

## Condensed Report.

Thirty-four members. Meet annually. No program except for annual meeting. May be made a strong organization by a little well directed effort.

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## THIRTEENTH JUDICIAL CIRCUIT. .

Counties of Antrim, Charlevoix, Grand Traverse and Leelanau.

## Grand Traverse County Bar Association.

H. C. Davis, of Traverse City.....	President
Parm C. Gilbert, of Traverse City.....	Vice-President
Elmer E. White, of Traverse City.....	Secretary
C. D. Alway, of Traverse City.....	Treasurer

## Condensed Report.

Annual meeting. Social rather than educational. Fifteen members. Has enough live men to become a strong and effective organization.

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## FOURTEENTH JUDICIAL CIRCUIT.

Counties of Muskegon and Oceana.

## Muskegon County Bar Association.

William Carpenter, of Muskegon.....	President
Willard J. Turner, of Muskegon.....	Vice-President
Edward C. Farmer, of Muskegon.....	Secretary
Edward S. Lyman, of Muskegon.....	Treasurer

## Condensed Report.

Meet bi-monthly. Discuss current measures. Promote public welfare by active work. Hold picnics in summer and bar banquets in winter. 24 members.

SEVENTEENTH JUDICIAL CIRCUIT.

County of Kent.

Grand Rapids Bar Association.

Mark Norris, of Grand Rapids.....	President
Fred M. Raymond, of Grand Rapids.....	Vice-President
Thomas P. Bradfield, of Grand Rapids.....	Secretary
David A. Warner, of Grand Rapids.....	Treasurer

Condensed Report.

Meetings held irregularly during year. No fixed policy of educational work. Great opportunity for powerful organization. Two hundred members.

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EIGHTEENTH JUDICIAL CIRCUIT.

County of Bay.

Bay County Bar Association.

S. G. Houghton, of Bay City.....	President
John L. Stoddard, of Bay City.....	Vice-President
D. J. Kavanaugh, of Bay City.....	Secretary
D. J. Kavanaugh, of Bay City.....	Treasurer

Condensed Report.

Annual meeting and banquet. Special meetings frequently held. No program beyond this. Forty members. Spirit and organization excellent.

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TWENTY-EIGHTH JUDICIAL CIRCUIT.

Counties of Kalkaska, Missaukee, Wexford and Benzie.

Wexford-Missaukee Bar Association.

Fred S. Lamb, of Cadillac.....	President
Fred C. Wetmore, of Cadillac.....	Vice-President

Condensed Report.

Organized in 1916. Just getting under way. Good prospects for active work.

## PROCEEDINGS OF

## TWENTY-NINTH JUDICIAL CIRCUIT.

Counties of Gratiot and Clinton.

Gratiot County Bar Association.

George P. Stone, of Ithaca.....	President
C. W. Giddings, of St. Louis.....	Vice-President
John T. Mathews, of Ithaca.....	Secretary
Wm. A. Bahlke, of Alma.....	Treasurer

## Condensed Report.

Meet quarter-yearly to discuss timely topics. General discussion encouraged. Twenty-two members. Every member of bar of Gratiot County belongs. Unsurpassed leadership.

## THIRTIETH JUDICIAL CIRCUIT.

County of Ingham.

Ingham County Bar Association.

Alva M. Cummins, of Lansing.....	President
L. B. McArthur, of Mason.....	Vice-President
Harry A. Silsbee, of Lansing.....	Secretary
Carl H. McLean, of Lansing.....	Treasurer

## Condensed Report.

Annual meeting held second Monday in December, at which only officers are elected.

The Ingham County Bar Association hold on the last Saturday of each month a noon-day luncheon at which different subjects, proposed by members, and of interest to the profession, are discussed. No set program for the year is made up. These luncheons are largely attended and have been a great help to the Association in bringing its members in closer touch with one another.

THIRTY-FIRST JUDICIAL CIRCUIT.

County of St. Clair.

St. Clair County Bar Association.

Clair R. Black, of Port Huron .....	President
J. F. Wilson, of Port Huron .....	Vice-President
Burt D. Cady, of Port Huron .....	Secretary
Henry Baird, of Port Huron .....	Treasurer

Condensed Report.

Meetings held monthly from October to May. Timely topics discussed and addresses given by members or by lawyers from other circuits. Forty-five members. A strong working organization.

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THIRTY-THIRD JUDICIAL CIRCUIT.

Counties of Mackinac, Emmet and Cheboygan.

Cheboygan County Bar Association.

Victor D. Sprague, of Cheboygan .....	President
Homer H. Quay, of Cheboygan .....	Vice-President
James F. Shepherd, of Cheboygan .....	Secretary

Condensed Report.

Excellent spirit of mutual helpfulness and friendliness prevails. Every lawyer in Cheboygan County belongs. Leadership unsurpassed.

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THIRTY-FOURTH JUDICIAL CIRCUIT.

Counties of Arenac, Crawford, Gladwin, Ogemaw, Roscommon and Otsego.

West Branch Bar Association.

James B. Ross, of West Branch.....	President
E. M. Harris, of West Branch .....	Vice-President
William T. Yeo, of West Branch .....	Secretary
George Bennet, of West Branch .....	Treasurer

## PROCEEDINGS OF

## Condensed Report.

Movement under way to organize every county in the circuit. Meetings are held in West Branch quarter-yearly. Discussion of timely topics. Ten members. Men interested capable of commanding best results.

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## THIRTY-FIFTH JUDICIAL CIRCUIT.

Counties of Shiawassee and Livingston.

## Shiawassee County Bar Association.

George E. Pardee, of Owosso .....	President
E. S. Atherton, of Durand .....	Vice-President
E. F. Wilson, of Owosso .....	Secretary
Neil R. Walsh, of Owosso .....	Treasurer

## Condensed Report.

Vigorous young organization. Every practicing lawyer in Shiawassee County (except one) belongs. Meetings are held quarter-yearly. Programs are arranged and timely topics discussed. Lawyers from other circuits, as well as from the local bar, give addresses. Is peer of any association of like age in the State.

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## THIRTY-SIXTH JUDICIAL CIRCUIT.

Counties of Van Buren and Cass.

## Cass County Bar Association.

John R. Carr, of Cassopolis .....	President
Walter C. Jones, of Marcellus .....	Vice-President
Asa K. Hayden, of Cassopolis .....	Secretary
Asa K. Hayden, of Cassopolis .....	Treasurer

## Condensed Report.

Meet infrequently. No stated program. Fifteen members. Growing activity may be confidently predicated.

## THIRTY-SEVENTH JUDICIAL CIRCUIT.

County of Calhoun.

Calhoun County Bar Association.

George W. Mechem, of Battle Creek .....	President
James M. Powers, of Battle Creek .....	Vice-President
Laurence E. Gordon, of Battle Creek .....	Secretary
Laurence E. Gordon, of Battle Creek .....	Treasurer

## Condensed Report.

Printed programs issued in advance for each year. Meetings held every two weeks from October to June. Stated program consists of paper or address on some legal subject at each meeting, followed by general discussion. All meetings are preceded by a six o'clock dinner. Forty-seven members.

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ADDENDA.

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At the annual meeting and subsequent thereto the following reports have been made:

## THIRD JUDICIAL CIRCUIT.

County of Wayne.

Detroit Bar Association.

Frank D. Eaman, of Detroit .....	President
Henry C. Walters, of Detroit .....	1st Vice-President
Arthur Webster, of Detroit .....	2nd Vice-President
Wade Mills, of Detroit .....	Treasurer
Stewart Hanley, of Detroit .....	Secretary

## Condensed Report.

The principal activities of the Association might be divided into two classes:

First—The maintenance of a library; and

Second—The raising of the ethical standing of the Bar.

The library purchased of Detroit College of Law consists of 15,000

volumes. The Association maintains an active Committee on Grievances, which has accomplished a great deal in the way of educating some members of the Bar upon the subject of ethical standards, getting rid of a few who were out of place in the profession, and instituting proceedings to discipline some others who are in need of such procedure.

The active membership is composed of lawyers residing and practicing in Wayne County, and any other lawyer in this State or outside of this State has the privilege of becoming a non-resident member, which carries with it the privileges of the Library.

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### THIRD JUDICIAL CIRCUIT.

County of Wayne.

Lawyers' Club of Detroit.

John Faust, of Detroit .....	President
Arthur J. Lacey, of Detroit .....	Vice-President
Asher L. Cornelius, of Detroit .....	Secretary
Edmund Sloman, of Detroit .....	Treasurer

#### Condensed Report.

The Lawyers' Club of Detroit is an organization composed of lawyers engaged in the active practice of law in Wayne County. Its objects are to promote good fellowship among the members of the bar and to further the interests of the profession.

The Club now has a membership of 527, the Club having experienced a growth of 135 during the past year.

This organization takes pride in the number of its members who have gone into the military service and are serving their country with honor and distinction.

The President of the Club, Major John Faust, entered the Second Officers' Training camp in August, 1917, as a civilian and without previous military training; was commissioned a Captain and has seen active service in France. At the present time he is lying wounded in a base hospital in France. For his distinguished services in the field he has been commissioned a Major.

Sixty-seven members of the Club are now in the military service of the United States and at least 75 per cent of these have received commissions.

The Lawyers' Club of Detroit is justly proud of the splendid showing it has made with respect to the ability and patriotism of its membership in the military service.

## SEVENTH JUDICIAL CIRCUIT.

County of Genesee.

## Genesee County Bar Association.

Zora B. House, of Flint .....	President
William C. Stewart, of Flint .....	Vice-President
Vincent D. Ryan, of Flint .....	Secretary
John F. Baker, of Flint .....	Treasurer

## Condensed Report.

The Association meets the last Saturday of each month at a dinner at which time discussion of affairs of interest to the profession, and also matter of interest locally are discussed. The membership of the Association is about thirty-five members.

## ELEVENTH JUDICIAL DISTRICT.

Counties of Chippewa, Alger, Luce and Schoolcraft.

The counties of Alger, Luce and Schoolcraft are very small and have only three or four practicing attorneys and no bar associations are maintained. Chippewa County has a Bar Association of about twenty-five members which was organized some ten years ago, but fell into inactivity until recently when interest has been revived and the association feels the benefit of meeting together, and it is proposed for the coming year to have a regular program and a regular time for meeting.

## THIRTY-NINTH JUDICIAL CIRCUIT.

County of Lenawee.

## Lenawee County Bar Association.

John A. Riley, of Adrian .....	President
Jacob M. Sampson, of Adrian .....	Vice-President
Earl C. Michener, of Adrian .....	Sec'y-Treasurer

The Association has a membership of forty-one members, who hold an Annual Bar Meeting and an Annual Banquet and an Annual Outing, aside from several special meetings during the year. The Association is active in bringing up matters of importance and interest to the bar.

REPORT OF THE HISTORICAL COMMITTEE OF THE  
MICHIGAN STATE BAR ASSOCIATION  
OF 1917, 1918.

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Your Committee has endeavored by a thorough canvass of each county in the State to obtain a full report on all our members who have died since our last meeting. We could not be sure, of course, that every one of whom we made inquiry, would make the necessary reply, but we assumed, if no answer was received, it was because there was nothing to report.

We regret to have to report the death of one of the highly esteemed members of the committee, Judge Russell R. Pealer whose place on the committee was supplied by the President by the appointment of Judge Harry D. Jewell, of Grand Rapids. Honorable Fred A. Baker, of Detroit, was compelled to retire from the committee by reason of injuries received by him last winter in an automobile accident. His place was, at his request, filled by the appointment of Mr. Reilley, of Cheboygan.

The chairman of the committee takes this opportunity to thank each member for their active cooperation in the preparation of the report which follows:

EDWARD CAHILL,  
Chairman.

JUDGE SHIPMAN.

Judge Shipman was born in Seabrook, Conn., in 1832 and from there moved to Centerville, Michigan, where he entered the law offices of Judge Gurney. He acquired his legal knowledge in the old school, and with it acquired the sterling virtues that were possessed by those early lawyers. Not satisfied with the legal education he received in Centerville, he went to Chicago and made a special study of pleading and practice. He returned to Michigan and formed the partnership of Rily and Shipman in Constantine. He remained here six years, then moved to Coldwater, forming the law partnership of Loveridge and Shipman. He earned the esteem and confidence of all who came in contact with him and in 1878 was elected Judge of the Fifteenth Judicial Circuit and as such demonstrated his clearness in legal reasoning, and distributed justice without fear or favor. After the ex-

piration of his term as judge he represented before Congress and the Departments at Washington, the interests of several Indian Tribes, securing for them long deferred justice.

His life is an example of knowledge, obtained through determination and self-sacrifice; of sterling integrity, untouched by avarice; of justice distributed without favor; of kindness, unaffected by professional jealousy or personal feeling, and in his death the State Bar loses one of its finest characters.

#### ENOCH BANCKER.

Mr. Enoch Bancker, born October 7, 1831, at Saratoga, N. Y. Died June 29, 1917. Came to Michigan when a child. Graduated in law class of 1860, from University of Michigan, which was the first law class graduated from the U. of M. Admitted to practice at that time, and went into partnership with O. W. Bennett.

Was quite active in early railroad building in this section of the State. Was president of the Jackson County Bar Association at the time of his decease; also a member of the State Bar Association and of the American Bar Association.

Always a Democrat and active in the early political affairs of the city of Jackson, being city attorney at one time.

#### JASPER C. GATES.

Jasper Calvin Gates, born at Pleasantville, Pa., March 23, 1850, died January 8, 1916. He was graduated from Union College, Schenectady, N. Y., as a Civil Engineer in 1872, and a Bachelor of Arts of 1873; receiving the honorary Degree of Master of Arts in 1893; was graduated from the Albany Law School as Bachelor of Laws in 1874; was admitted to the Bar of Michigan in 1875, and remained in active practice to the hour of his death, being called when at work in his office.

Mr. Gates became a professor on the faculty of the Detroit College of Law upon its organization in 1893, and retained that position through life; every graduate of the College being taught by him at some time during his course. His abilities peculiarly fitted him for this work, and by his patience, his thoroughness, his high standard of living, his rare gift of imparting knowledge to others, and his profound knowledge of law, he won a place in the hearts and minds of his pupils that time can never efface.

By years of thorough preparation and study, Mr. Gates became an expert trial lawyer and achieved fame as an author of text-books on

real property and evidence. He took a great interest in procuring an honest and efficient civic government, and his counsel was at all times eagerly sought and given to that end. To his expert knowledge of those matters we owe the direct primary law, and other laws, designed to procure honest elections, now on the statute books.

Mr. Gates was an active member of the Baptist denomination, was President of the Baptist Union at the time of his death, and conducted a bible class for men, which was largely attended by law students, in whom, in class and out of class, he took a deep personal interest.

#### FRANK H. CANFIELD.

Frank H. Canfield, for many years prominent at the bar, passed to his final rest, at his home on Jefferson Avenue, Detroit, Thursday, on the ninth day of March, 1916. He was born at Mt. Clemens, Michigan, May 9th, 1839, and educated in the Public Schools of his native town, and later in the State Normal School at Ypsilanti. His grandfather, Judge Clemens, settled in 1790 in what is now the City of Mt. Clemens. The place was named after him.

Mr. Canfield received his legal training in the office of his uncle, General Henry D. Terry, distinguished alike at the bar and upon the battlefields on the Union side, during the Civil War. Afterward he entered the office of the late Halmer H. Emmons, a lawyer of exceptional learning and ability, and the first United States Circuit Judge of this circuit. He was admitted to the bar on his birthday, in 1860, and at once entered upon the practice of his profession and so continued until the time of his death. From 1880 to 1893 he was associated with the late William A. Moore, as partner under the firm name of Moore & Canfield. Later he was associated with his son, George L. Canfield, and finally as counsel with the firm of Miller, Smith, Canfield, Paddock & Perry.

As a lawyer he was far above the average in learning and ability. In the discharge of his professional duties he was painstakingly laborious and conscientious. He discharged his duties to his clients and to the courts with scrupulous fidelity and with unfailing courtesy to opposing counsel. His practice was general, covering the entire field of law. He specialized in the practice of admiralty law, and therein achieved distinction and a reputation extending far beyond this State. He was connected with some of the most important litigations, and his clients were numbered among the prominent people of this State.

## REMARKS ON THE DEATH OF THE LATE HONORABLE DANIEL H. BALL OF MARQUETTE, MICHIGAN.

BY GEORGE W. BATES, OF THE DETROIT BAR.

The city of Marquette was the home town of our distinguished friend, the late Daniel H. Ball. His full name was Daniel Harvey Ball. This was afterwards changed to Dan H. Ball, as the name by which he was known.

The settlement of Marquette dates from 1845 in which year the real value of the rich veins of iron deposits in the vicinity were recognized and the lands located for mining purposes. The first iron dock was built in 1854 and the first railroad completed to the mines in 1857. At that time, the city of Marquette—so-called from the name of the famous Jesuit Missionary, Father Marquette, who first made that region known to the civilized world—was but a settlement in the wilderness. Peter White says that in 1851-1853 Marquette consisted of "a few houses, a stumpy road winding along the lake shore, a forge which burnt up after impoverishing its first owners, a trail westward just passable for wagons, leading to another forge (still more unfortunate in that it did not burn up), and to the undeveloped iron hills beyond; and a few hundred people uncertain of the future. They had fallen into the march of the century and were building better than they knew."

From 1849 to 1854 Marquette county was one of the isolated places that the Government did not think worth while to provide with winter mail facilities. There were intervals of from three to four months at a time when no mail, letter or paper of any kind was received by anyone in the country. Then, when mail did arrive, all work was suspended, even the washing and cooking. When the newspapers had been read they would be passed on until they were worn to shreds and original ownership forgotten. Even in later years when the Government did provide for the mail, there would always be certain months when transportation would be impossible, owing to the depth and softness of the snow, during March, April and sometimes during the first half of May.<sup>1</sup> But there were better times in store for original inhabitants of Marquette,—a ship-canal at the Sault and a railroad to the iron mills were in the near future. The realization of a ship

1. Peter White, *Recollections of Early Marquette*, in the Peter White Papers; C. M. Burton's Historical Collection, Detroit.

2. *Representative Men of Michigan*, 9th Congressional District, p. 2. *History of the Upper Peninsula of Michigan*, Illustrated, p. 379.

canal at the Sault transferred the dream of a railroad from here to the iron hills into a certainty.<sup>3</sup>

The great Sault Ste. Marie canal was completed at an expense of \$875,000, and the west-bound steamer, *Illinois*, was the first boat to be locked through, in June, 1855. At the time of their completion the locks were the largest in the world. The canal was built on the outskirts of civilization; the laborers were immigrants sent in gangs from New York City, and the nearest telegraph station was Detroit. The work was done with the mercury often thirty-five degrees below zero and with only eight hours of daylight. The canal became the property of the Federal Government in 1881. It was improved by the construction of the Weitzel Lock at a cost of \$2,180,000, which was afterwards replaced by the Poe Lock in 1886 with a length of eight hundred feet, a width of one hundred feet and a depth of twenty-one feet. The Hon. Theodore E. Burton, then chairman of the Committee on Rivers and Harbors of the United States House of Representatives, thus speaks of this great public improvement: Here was a canal, the idea of which Henry Clay had scoffed at because the location was beyond the utmost boundaries of commerce,—if not in the moon.<sup>4</sup> Now its tonnage was twice that of the Suez Canal, and its cargoes were three times as great, every pound of which passes through American or Canadian locks without payment of tolls. The tonnage passing through the canal equals one-seventh of that carried by all the railroads of the country at a cost of one-tenth of the railway charges. Today, after a half century, the commerce of the Sault Ste. Marie canal has increased from fifteen thousand tons to more than thirty-six million tons. Instead of vessels carrying less than a thousand tons, the lakes had steamers handling eleven thousand tons. Half of the wheat crop of the United States during the great year of 1901 was carried by lake transportation, whereas in 1855 nearly three weeks were required to unload three hundred tons of iron ore, now ten thousand tons were unloaded in four hours.<sup>5</sup>

The production of iron ore, charcoal and pig iron continued steadily to increase until in 1873 more than one-quarter of the iron produced in the United States was made from the ores of Marquette county. The total shipments of iron ore from the Lake Superior mines in 1875 showed that 910,849 gross tons of the value of \$3,540,599 were shipped. From 1856 to 1875 there was in actual operation in Marquette county over fifty-two mines and the total amount of gross tons as the production of such mines during that time amounted to 8,619,519 tons. The shipments of pig iron from the Lake Superior furnaces during 1875 amounted to 81,753 tons of the value of \$2,248,264.

3. Moore's History of Michigan, Vol. I, pp. 465, 473.

4. History of Marquette County. Biographical Sketches, p. 42.

5. Moore's History of Michigan, Vol. I, p. 465.

The aggregate yield in gross tons of the mines and furnaces of this district from 1856 to 1875 showed iron ore of 8,559,129 tons, pig iron of 9,160,224 tons, of the total value of \$69,155,494.<sup>6</sup>

Mr. Ball, then a young man just from the University of Michigan, was attracted to that great prospect of nature, and in 1860 he decided to locate as a young lawyer and practice his profession in what was then a literal wilderness in the new world. He stayed and, as Horace Greeley would say, "grow up with the country." He had thus the satisfaction of seeing his town grow until it became a city of over twelve thousand people, and become the center of the great iron interests of the State, known as "the Queen City of Lake Superior," the county seat of Marquette county, and the metropolis of the mining interest of the Lake Superior iron region, picturesquely located on the south shore of Lake Superior, on the rivulet known as Marquette Bay, 40 miles from Chicago and 450 miles by water from Detroit.<sup>7</sup> His reputation for wide legal learning and for sound legal judgment grew with the growth of the State in which he was located. In time he came to be recognized as the leading authority in mining law, in which department of the law he had acquired a large and lucrative practice as the legal adviser and counselor of many of the great iron corporations of that section of the State, so that he came to be the leading man in all the affairs of his church and State and in all legal matters in that section of the State.

Dan H. Ball was born in Sempronius, Cayuga county, New York, January 15, 1836, and died February 21, 1918, and was the son of James and Louise Ball. His father was born in Vermont and his mother in New York. His maternal grandfather served in the War of the Revolution and his paternal grandfather in the War of 1812. James Ball, his father, was one of the pioneers in New York state and resided there until 1836, when he removed to Washtenaw county, Michigan. He reclaimed a farm from the wilderness and resided there until his death in 1852. His wife survived him for forty years and died in 1892, in her eighty-seventh year, at the home of her daughter, Mrs. Henry Lewis, in Atlanta, Georgia.

Mr. Ball was only one year old at the time of his father's removal to Michigan. His early education was obtained in the district schools and in Western Seminary at Albion, Michigan. He then taught school for two years, spent one year in the Literary Department of the University of Michigan, commencing in the fall of 1856, then resumed teaching, meanwhile studying law, and in the fall of 1860 he entered

6. Historical Address of the Hon. H. B. Ely, of Marquette, (Michigan Pioneer Collection, Vol. 7 (1884) p. 166).

7. Biographical Record of Leading Citizens of Houghton, Baraga and Marquette Counties, Michigan, p. 332.

8. Men of Progress in Michigan, p. 378.

the Law Department of the University of Michigan and. at the end of one year, was admitted to the bar.

When the courts were first held here, there were no resident lawyers. The first resident attorney,—says Mr. H. B. Ely, a pioneer of Marquette,—was Mathew H. Maynard, who settled in Marquette in June, 1855. The next was Peter White, who was admitted to the bar in 1857, and next to him came Dan H. Ball.\*

This was in June, 1861. He came to Marquette because of the death in the previous winter of his brother James W. Ball, who had been engaged in the grocery business in that place. Mr. Ball closed up the mercantile business in the course of one year and then became actively interested in the Lake Superior News and the Lake Superior Journal which eventually became the Morning Journal.

He remained in the newspaper business about two years, and in the fall of 1862 was appointed Register of the U. S. Land Office of Marquette. After the expiration of his term he was reappointed by President Lincoln and held the office until 1865. He then resumed the practice of law in Marquette, and in September, 1886, removed to Houghton where he formed a partnership with Mr. James B. Ross, and afterwards with J. H. Chandler.

In September, 1870, Mr. Ball returned to Marquette where for almost forty-eight years he was engaged in an extensive general practice and was identified with much important litigation as well as being active counselor for important interests.

During this long period, Mr. Ball was associated from time to time in partnership with a number of other lawyers. His first partner was the late M. H. Maynard, the first lawyer that ever practiced in Marquette county, the firm name being Maynard & Ball. This firm continued until 1873, when Mr. Maynard retired to engage in separate practice and was succeeded by Mr. Cyrenius P. Black, the firm name being Ball & Black. In 1874, A. R. Crow, who afterwards practiced in Houghton, was admitted to the partnership. In 1875 the firm name was Ball, Black & Owen, and in 1876-7-8 Ball & Owen. From 1879 to 1882 Mr. Ball practiced alone. In 1882 he formed a partnership with the late J. D. Hanscom, which he continued until 1893 when the firm was dissolved. Mr. Ball then formed, under the name of Ball & Ball, a partnership with his eldest son, James Everett Ball, which continued until the death of his junior member in 1914. Since 1914 the firm name has been Ball & Garvin, the junior member being Leon J. Garvin, formerly of Ontonagon.

This record covers nearly all of the leading interests which the growth of the Lake Superior iron region created.

\* 9. Historical Address of Hon. H. B. Ely. Michigan Pioneer Collection. Vol. 7. p. 166.

There were the cases which involved the mining interests and matters.

1. *Involving Mining Interests and Matters.*

Among other cases are the following:

*Edwards v. Allouez Mining Company*,<sup>10</sup> *Kitts v. Quincy Mining Company*,<sup>11</sup> *Collins v. Jackson*,<sup>12</sup> *Pierce v. Pierce*<sup>13</sup>

Other litigation between the parties, arising out of their transactions were involved in the same case<sup>14</sup> *Crawford v. Moore*; *Pellow v. Arctic Mining Company*,<sup>15</sup> *Pittsburgh & Lake Superior Iron Company v. Lake Superior Iron Company*,<sup>16</sup> *Ball v. Ridge Copper Company*.<sup>17</sup>

*Banfield v. Chapin*. This case involved title to the Chapin mine at Iron Mountain, and was settled before coming to trial.

*Scott v. Sullivan, et al.*<sup>18</sup> In this case Mr. Ball represented the intervening land owners.

*F. W. Denton and Humphrey W. Chadbourne v. Ahmeek Mining Company and Calumet & Hecla Mining Company*. This case was a suit enjoining the Calumet & Hecla from carrying on its proposed consolidation of twelve of the Michigan copper mining companies in which it owned stock. The case resulted in the abandonment of the consolidation, and it never reached the Supreme Court of Michigan. There was another similar case in the Federal Court, of John F. Jackson against the same defendants, which was also dropped when the plan was abandoned.

*Copper Range Company v. Township of Adams*. This case is now on appeal to the Supreme Court of Michigan, involving the legality of the method pursued by the Supervisors of Houghton county in assessing properties of Mining Companies for taxation.

2. *The Cases involving title to government lands.*

These were:

*United States v. Keweenaw Association, Ltd.*, original and cross-bill, in which the title to all of the so-called homesteaders on Canal Company lands was litigated.

There were other cases involved in the title to the lands of the Lake Superior Ship Canal Railway and Iron Company which went to the Supreme Court of the United States and settled the rights of the Canal Company as against homesteaders upon the same lands.

They were:

*Lake Superior Ship Canal Railway & Iron Company v. Cunning-*

10. 38 Mich. 46.
11. 42 Mich. 34.
12. 54 Mich. 186.
13. 55 Mich. 629.
14. 89 Mich. 253.
15. 164 Mich. 87.
16. 118 Mich. 109.
17. 118 Mich. 7.
18. 169 Mich. 297.

ham;<sup>19</sup> *Lake Superior Ship Canal Railway & Iron Company v. Hugh Finan*;<sup>20</sup> *Lake Superior Ship Canal Railway & Iron Company v. Michael Donahue*.<sup>21</sup> Mr. Ball was the attorney of record in these cases, acting with the Hon. John F. Dillon of New York.

There are also a large number of Michigan Land and Iron Company, Ltd., homestead cases, involving the title of various squatters on lands of the company, which were tried first in the United States Land Office at Marquette, and then appealed to the Secretary of the Interior.

Mr. Ball was also prominently identified with the Income Tax cases, as counsel for Mr. John M. Longyear, the Keweenaw Land Association, Limited, the Newport Land Company, and the Michigan Iron & Land Company, Ltd., acting with Mr. John R. Van Derlip, of Minneapolis, and also Mr. Nathaniel Wilson of Washington, D. C.

The last case argued by Mr. Ball in the Supreme Court of Michigan was that of *Donahue v. Vosper*,<sup>22</sup> which was removed to the Supreme Court of the United States, March 16, 1916, when the judgment of the Supreme Court of Michigan was affirmed. In this case, the question was involved as to whether the grantor was estopped by his deed with the accompanying warranties from asserting any claim upon the basis of the interests secured thereafter.

Mr. Ball had a reputation as a lawyer that extended far beyond the confines of the Upper Peninsula and of the State of Michigan. He became known many years ago as a lawyer of great ability, sound judgment, undying devotion to the interest of his clients and strong integrity. He inherited from his New England ancestors a rugged constitution which was the basis of his amazing capacity for work and of the great success that characterized his professional career. Mr. Ball's patriotic loyalty and public spirit have always been marked. The demands of his profession were always so exacting that he never sought public office or became a member of any social or fraternal organization, with the single exception of the Marquette Club, of which he was a member during the last twenty-five years of his life. He was at one time nominated as Circuit Judge for the twenty-fifth circuit, but he felt that he had to decline the honor, and in 1895, at the Republican State Convention, his name was presented for nomination as a candidate for the office of Justice of the Supreme Court. He was also a candidate for State Senator in 1896 against Peter White but was defeated. From September, 1905, to September, 1914, he served three terms as a member of the Marquette Board of Education. He was for many years a member of the American Bar Association. He was also for the last fifteen years of his life president

19. 155 U. S. 354; 30 Law. Ed. 183.

20. 155 U. S. 389; 30 Law. Ed. 192.

21. 155 U. S. 386; 30 Law. Ed. 194.

22. 189 Mich. 178.

of the Marquette Bar Association. He was a Commissioner on Uniform State Laws from Michigan for nearly ten years and a member of many of its most important committees. He was devoted to the cause of Uniformity of Legislation and was one of the most efficient members of the National Conference.

Mr. Ball is survived by his widow and three children: Lieut-Col. George E. Ball of the United States Army, now stationed at Camp Custer, Mrs. Walter Hill, wife of the lawyer in active practice in East Liverpool, Ohio, having four children, and Mrs. John G. Stone, of Houghton, Michigan, whose husband is a son of Judge J. W. Stone of the Michigan Supreme Court and is head of the firm of Stone, Weaver & Schulte. Mr. and Mrs. Ball also lost three children by death: Charles W., who died in infancy in 1867, Amelia N., wife of Clarence N. Murphy of Redlands, Cal., who died in May, 1905, leaving three children, and James E. Ball, who married Miss Sarah McConnell of Madison, Wisconsin, in 1894, and died in 1914.

Both Mr. and Mrs. Ball were devoted and loyal members of St. Paul's Episcopal Church, of which Mr. Ball was a vestryman for the last four years of his life, and was also Senior Warden ever since the death of Mrs. Ball's father, Philo M. Everett, whom he succeeded in the position.

Mr. Ball, who was conceded to be the leader of the Upper Peninsula Bar and one of the most prominent members of the legal profession in Michigan, has spent his entire life within the borders of this State.<sup>23</sup> While at Houghton, the firm of Ball & Ross built up a large and lucrative practice. Then upon his return to Marquette, his association with Mr. Maynard was equally gratifying and is sure evidence of his skill and ability. Rapidly, he worked his way upwards until he commanded a most extensive business and was numbered among the most foremost members of the Bar in the State. He had been offered many positions of trust but he could not be induced to abandon his chosen profession and continued to give the best years of his life to its varying demands, in which he realized its highest rewards as a lawyer of great fidelity, learning and trust. It has been well said of him: "It is only by mind that one can rise in professional circles, and industry, enterprise, determination and superior ability have been the stepping stones on which he has climbed to his position of eminence."<sup>24</sup> He was especially fortunate in the selection of his partnerships, because they were all successful and were the means of adding to his prestige and fame. The secret of his success in life has been due to hard work alone, for he was a man who was never easy unless he had some great legal problem to solve or some large case to defend or prosecute. He found no time to while away at com-

23. Northern Peninsular of Michigan Memorial, Vol. p. 17.

24. History of the Men of Progress of Michigan, p. 378.

mon frivolities and was only contented to be at work, studying up some point to win a case or engaged in consultation with the heads of some of the many large concerns which left the legal responsibility of their business in his hands. In his profession he was rated a substantial rather than a brilliant lawyer.

His life, although practically an uneventful one, has been successful and his career is one that any man could be proud of.<sup>75</sup> His life almost spans the history of jurisprudence in Michigan. He was in fact the pioneer of this section and saw his home town develop from a backwoods settlement into its present prominence. Strictly speaking, he was what might be called a "country lawyer," but he started in life in a most fortunate section and at a time when it made wonderful growth. Ordinarily, the city of Marquette might have been one of the small shore towns in a region, which had only assumed little importance in the great affairs of the country. But this was a period of great growth everywhere and Marquette happened to be located where the greatest growth was possible. The discovery of rich iron deposits at this point made it the object of great investment, enterprise and industry. The great improvement of the country,— the building of the Sault Ste. Marie Canal, was in fact what made possible the growth and development of the Lake Superior region. The city of Marquette was the first to feel its effect upon that region. This is essentially a section of lake navigation. The region is dependent upon it and the importance of Marquette and its rich iron deposits came at once to the notice of the public. Its iron industry was at that time the leading industry of the country and it is not surprising that Marquette became the metropolis of the Lake Superior region. The general business created by this condition of affairs and the large interests centered there gave rise to the demand for a lawyer of character and of first rate legal ability. The business interests of this region sought him out. That man was Dan H. Ball. He proved to be the man demanded at that time, and he grew with the growth of the great undiscovered country, the vast region of Lake Superior.

We do not speak of Dan H. Ball as of Marquette, but rather of Lake Superior or the Upper Peninsula of Michigan. While locally situated, his fame had extended to the utmost confines of this State. It was his good fortune to be spared for a long life of usefulness. His sudden taking away is to be regretted in that the State has lost a noble citizen, the community in which he lived and the Bar, an honored and loved member. A life full of good deeds, of earnest effort, of honest, clean living in the fullness of many years is closed.

GEORGE W. BATES.

Read before the Annual Meeting of the Michigan State Bar Association, at Kalamazoo, Mich. June 28, 1918.

<sup>75</sup>. *Cyclopedia of Michigan Historical and Biographical, Illustrated*, p. 72.

**RESOLUTION MOVED BY GEORGE W. BATES OF  
DETROIT.****ON THE DEATH OF THE LATE DAN H. BALL, OF MARQUETTE.**

The city of Marquette, was the home town of our distinguished friend, the late Daniel H. Ball. Its settlement dates from 1845 in which year the real value of the rich veins of iron deposits in the vicinity were recognized and the lands located for mining purposes.

The first iron dock was built in 1854 and the first railroad completed to the mines in 1857. At that time, the city of Marquette was but a settlement in the wilderness. It consisted of a few houses, a stumpy road winding along the lake-shore and a few hundred people uncertain of the future. They had fallen into the march of the century and were building better than they knew. From 1849 to 1854 Marquette County was one of the isolated places that the Government did not think worth while to provide with winter mail facilities.

But there were better times in store for the original inhabitants of Marquette—a ship-canal at the Sault and a railroad to the iron-mills were in the near future. From 1856 to 1875 there were in actual operation in Marquette county over fifty-two mines and the total amount of gross tons as the production of such mines during that time amounted to 8,619,519 tons. The aggregate yield in gross tons of the mines and furnaces of this district from 1856 to 1875 showed iron-ore 8,559,129 tons, pig-iron of 9,160,224 tons, of the total value of over sixty-nine million dollars.

Mr. Ball, then a young man just from the University of Michigan, was attracted to that great prospect of nature, and in 1860 he decided to locate as a young lawyer and practice his profession in what was then a literal wilderness in the new world. He stayed, and, as Horace Greeley would say, "grew up with the country." He had thus the satisfaction of seeing his town grow until it became a city of over twelve thousand people and become the center of the great iron-interests of the state. His reputation for wide legal learning and for sound legal judgment grew with the growth of the state in which he was located. In time, he came to be recognized as the leading authority in mining law, in which department of the law he had acquired a large and lucrative practice as the legal adviser and counselor of many of

the great iron corporations of that section of the state, so that he came to be the leading man in all the affairs of his church and state and in all legal matters in that section of the state.

Dan H. Ball was born in Sempronius, Cayuga county, New York, on January 15, 1836, and died February 21, 1918. He was the son of James and Louise Ball. His father was born in Vermont and his mother in New York. His maternal grandfather served in the War of the Revolution and his paternal grandfather in the War of 1812. James Ball, his father, was one of the pioneers in New York state and resided there until 1836, when he removed to Washtenaw county, Michigan. He reclaimed a farm from the wilderness and resided there until his death in 1852. His wife survived him for forty years and died in 1892.

Mr. Ball was only one year old at the time of his father's removal to Michigan. His early education was obtained in the district schools and in the Western Seminary at Albion, Michigan. He spent one year in the Literary Department of the University of Michigan, and in 1860 entered the Law Department. At the end of one year he was admitted to the bar.

When the courts were first held here, there were no resident lawyers. The first resident attorney was Mathew H. Maynard who settled in Marquette in 1855. The next was Peter White who was admitted to the bar in 1857, and next to him came Dan H. Ball. In June, 1861, Mr. Ball came to Marquette because of the death of his brother, James W. Ball, who had been engaged in the grocery business in that place. He closed up the mercantile business in the course of one year and became actively interested in the Lake Superior News and the Lake Superior Journal, which eventually became the Morning Journal. In 1862 he was appointed Registrar of the U. S. Land Office of Marquette. He continued to occupy the office until 1865. He then resumed the practice of the law in Marquette. Shortly afterwards, he removed to Houghton and, in September, 1870, returned to Marquette, where for almost forty-eight years he was engaged in an extensive general practice, and was identified with much important litigation as well as being active counselor for important interests.

During this long period, Mr. Ball was associated from time to time in partnership with a number of other lawyers. His first partner was the late M. H. Maynard, the first lawyer that ever practiced in Marquette county, the firm name being Maynard & Ball. This firm continued until 1873, when Mr. Maynard retired to engage in separate practice and was succeeded by Cyrenius P. Black, the firm name being Ball & Black. In 1875 the firm name was Ball, Black & Owen, and in 1876-7-8, Ball & Owen. Mr. Ball practiced alone from 1879 to 1882. In 1882 he formed a partnership with the late J. D. Hanscom, which he continued until 1893, when the firm was dissolved. Mr. Ball then

formed, under the name of Ball & Ball, a partnership with his eldest son, James E. Ball, which continued until the death of his junior member in 1914. Since 1914 the firm name has been Ball & Garvin, the junior member being Leon J. Garvin.

This record covers nearly all of the leading interests which the growth of the Lake Superior iron-region created. His law cases involved mining interests and matters, and among these cases were many of the leading iron companies at Marquette. His cases also involved title to government lands, among which were those of the *United States v. Keweenaw Association, Ltd.*, in which the title to all of the so-called homesteaders on Canal Company lands was litigated. There were other cases involved in the title to the lands of the Lake Superior Ship Canal Railway and Iron Company which went to the Supreme Court of the United States and settled the rights of the Canal Company as against homesteaders upon the same lands.

Mr. Ball had a reputation as a lawyer that extended far beyond the confines of the Upper Peninsula and of the State of Michigan. He became known many years ago as a lawyer of great ability, sound judgment, undying devotion to the interests of his clients and strong integrity. He inherited from his New England ancestors a rugged constitution which was the basis of his amazing capacity for work and of the great success that characterized his professional career. Mr. Ball's patriotic loyalty and public spirit have always been marked. The demands of his profession were always so exacting that he never sought public office. He was at one time nominated as Circuit Judge for the twenty-fifth Circuit, but declined the honor. He was for many years a member of the American Bar Association and was, also, for the last fifteen years of his life president of the Marquette Bar Association. He was a Commissioner on Uniform State Laws from Michigan for nearly ten years and a member of many of its most important committees. He was devoted to the cause of Uniformity of Legislation and was one of the most efficient members of the National Conference.

Mr. Ball is survived by his widow and three children: Lieut.-Col. George E. Ball of the U. S. Army, now stationed at Camp Custer; Mrs. Walter Hill, wife of the lawyer in active practice in East Liverpool, Ohio, and Mrs. John G. Stone, of Houghton, Michigan. Both Mr. and Mrs. Ball were devoted and loyal members of St. Paul's Episcopal Church, of which Mr. Ball was a vestryman for the last four years of his life, and was also Senior Warden.

Mr. Ball who was conceded to be the leader of the Upper Peninsula Bar and one of the most prominent members of the legal profession in Michigan, has spent his entire life within the borders of this state. He had been offered many positions of trust but he could not be induced to abandon his chosen profession and continued to give the best years of his life to its varying demands, in which he realized its

highest rewards as a lawyer of great fidelity, learning and trust. It has been well said of him: "It is only by mind that one can rise in professional circles, and industry, enterprise, determination and superior ability have been the stepping-stones on which he has climbed to his position of eminence." The secret of his success has been due to hard work alone, for he was a man who was never easy unless he had some great legal problem to solve or some large case to defend or prosecute. He was a substantial lawyer, even if not a brilliant one. His life, although practically an uneventful one, has been successful, and his career is one that any man could be proud of. His life almost spans the history of jurisprudence in Michigan. He was, in fact, the pioneer of this section and saw his home town develop from a backwoods settlement into its present prominence. He started in life in a most fortunate section and at a time when it made wonderful growth. But this was a period of great growth everywhere and Marquette happened to be located where the greatest growth was possible. The discovery of rich iron deposits at this point made it the object of great investment, enterprise and industry. It was not long before it became the metropolis of the Lake Superior region.

Mr. Ball proved to be the man demanded at this time as a lawyer of sterling ability and worth, and he grew with the growth of the vast undiscovered country, the great region of Lake Superior. We speak of Dan H. Ball not of Marquette but rather of Lake Superior or the Upper Peninsula of Michigan. It was his good fortune to be spared for a long life of usefulness. His sudden taking away is to be regretted in that the state has lost a noble citizen, the community in which he lived and the Bar an honored and loved member. A life full of good deeds, of earnest effort, of honest, clean living in the fullness of many years is closed.

It is further resolved that a copy of these Resolutions be spread upon the Minutes of the Association and a like copy sent to the family of the deceased.

## DECEASED MEMBERS 1917-1918.

Alexander, Cassius, Grand Ledge, 1918.  
Bail, Dan H., Marquette, 1918.  
Bancker, Enoch, Jackson, June 29, 1917.  
Chamberlain, Robert M., Detroit, Aug. 7, 1917.  
Coolidge, O. W., Niles, 1918.  
Devereaux, James P., Saginaw, 1918.  
Durand, L. T., Saginaw, Aug. 7, 1917.  
Golden, C. A., Monroe.  
Gordon, W. D., Midland (Bay City).  
Hall, Frank M., Hillsdale, Feb. 7, 1918.  
Hendee, Joseph B., Eaton Rapids, 1918.  
Kane, R. W., Charlevoix, 1917.  
Maynard, Horace S., Charlotte, 1918.  
McKnight, W. F., Grand Rapids, May 19, 1918.  
Pealer, R. R., Three Rivers.  
Peters, M. B., Albion, 1918.  
Selling, B. B., Detroit, 1917.  
Shipman, John B., Coldwater.  
Smith, James Crosslet, Detroit, September 7, 1917.  
Wilson, Thomas A., Jackson, 1917.  
Young, H. O., Ishpeming.

## MEMBERS OF MICHIGAN STATE BAR ASSOCIATION IN NATIONAL SERVICE JUNE 28, 1918.

Bird J. Vincent, Saginaw.  
 Leslie E. Green, Hart.  
 James A. Green, Alma.  
 Albert J. Engle, Lake City.  
 Fred A. Behr, Detroit.\*  
 Edwin Denby, Detroit.  
 Edward Donnelly, Detroit.  
 Percy J. Donovan, Detroit.  
 W. G. Fitzpatrick, Detroit.  
 Harry L. Lyster, Detroit.  
 Hugh L. Torbert, Detroit.  
 Eugene A. Walling, Detroit.  
 Charles B. Warren, Detroit.  
 Henry C. Hogle, Detroit.  
 Carl V. Essery, Detroit.  
 Carl B. Egan, Detroit.  
 Charles E. Lewis, Detroit.  
 Harold H. Palmer, Coldwater.  
 Curtis D. Alway, Traverse City.  
 Howard A. Ellis, Grand Rapids.  
 Henry T. Heald, Grand Rapids.  
 Frank E. Shaw, Grand Rapids.  
 William Walsh, Port Huron.  
 Patrick H. Kane, Port Huron.  
 Wm. F. Steinkohl, Lansing.  
 Stanley D. Montgomery, Lansing.  
 William S. Seelye, Lansing.  
 Frank L. Doty, Pontiac.  
 Harry H. Gemmell, Ionia.  
 Glenn D. Mathews, Ionia.  
 Leo Little, Grand Haven.  
 Hugh Little, Grand Haven.  
 Raymond Vischer, Holland.  
 Emil Storkan, Ironwood.  
 Carl A. Robinson, Marshall.  
 Leland Mechem, Battle Creek.  
 Major S. D. Pepper, Lansing.  
 Charles F. Haight, Lansing.  
 Allan R. Black, Lansing.  
 J. T. Shoup, Centreville.  
 Seymour H. Person, Lansing.  
 Paul H. Cunningham, Grand Rapids.  
 L. W. Myers, Iron River.  
 Ralph R. Eldredge, Marquette.  
 Paul G. Eger, Lansing.  
 Albert E. Petermann, Calumet.

Note: The above is probably not a complete list of all members in National service, as a few have not reported and some have joined the service since the above report was made up.

## THE SIEGE OF THE QUESTIONNAIRE. .

Arthur J. Hillman of Niles, Mich., Bar.

You've heard about the battle  
Of the Marne and of Ypres  
Do you know the one the Lawyers  
Finished up the other day?

'Twas not a battle of the sword  
But of the mightier pen  
And fought with all the classes,  
Races, creeds and kinds of men.

There were Germans, Greeks and English  
French, Italians, Danes and Swedes  
Russians, Jews, Turks, Swiss and Spanish  
Negroes, Austrians, Persians, Medes.

They were all met by the Lawyers  
The men who do and dare  
Assisted by the Clergy  
At the Siege of the Questionnaire.

And this is the way they fought it  
If you're registered you'll know;  
You'll recognize the series  
As we pass 'em. So Let's go.

What is your name? What is your age?  
And where is it you live?  
What is the name and address  
Of your nearest relative.

How many hours do you work per week?  
What can you do the best?  
State any language you speak  
And underline the rest.

Perhaps you're blind or deaf or dumb?  
Maybe you are insane?  
If you answer no to question one  
You need not sign your name.

## PROCEEDINGS OF

Mayhap an office in the state  
You're fortunate to hold  
If so you need not worry,  
At least so I am told.

And if you preach religion  
In a regular Christian Church  
I rather think the draft bill  
Will leave you in the lurch.

Now of course you have dependents  
Who live by your support  
So here of all your earnings  
We now must make report.

I need not ask you of your wife  
Of course her health is poor,  
And you will be exempted  
Of that you may be sure.

Now if in agriculture  
You're a tiller of the earth  
We'll have to figure out  
What your services are worth.

How many acres of corn and oats  
And what of wheat and rye;  
If you cannot be replaced  
Just state the reason why.

With two supporting farmers  
Swearing by all that's good and true  
That no other living person  
Can do what you can do.

For twenty-seven days we fought  
And fought them to a fair  
In the long and tedious battles  
At the seige of the Questionnaire.

From seven in the morning  
Until ten or twelve at night  
Our telephones kept ringing  
To tell us of the fight.

One night I crossed the marshes  
In the place called "No man's land"  
To have an expectant mother  
Swear by her uplifted hand.

Through storm and slush and sleet  
I've tramped for weary miles  
To get the signature of a wife  
Who suffered from the piles.

We sacrificed our business  
For a straight three weeks and more  
To keep an exciting public  
From becoming peeved or sore.

And when I've grown old and feeble  
Like "The Last Leaf On The Tree";  
When my grandchildren gather  
Round my old rheumatic knee.

I can almost hear them asking  
As we reminis the war  
What did you do to win it  
If you saw no foreign shore?

I'll have no tales of bloodshed  
As I hold them on my knee;  
I'll wear no jeweled medal  
For my untold bravery.

But I shall surely tell them  
That I tried to do my share  
And fought like a good soldier  
At the Siege of the Questionnaire.

## REPORT OF SECRETARY.

Lansing, Michigan,  
June 27, 1918.

To the Officers and Members of the Michigan State Bar Association:

Gentlemen:—It is with some pleasure and pride that I report to the members this year that the work of the Association and its officers has been very active, not only for the benefit, I hope, of the members, but for our government during the present strenuous times.

Soon after the last annual meeting I, as secretary, had printed and circulated the resolution offered by Mr. Handy, requesting that all members of the Association give such aid in legal matters as they were called upon to give, in behalf of the families of soldiers gone to the front. I am in hopes that the resolution had the effect for which it was introduced, and that no worthy appeal was made in vain.

In December last, the President of the United States called upon The American Bar Association, and, in fact, all of the legal fraternity, to assist in selecting Legal Advisory Boards and Associate Members, to aid registrants in answering their questionnaires, a work which is now, I think, familiar to every lawyer in Michigan, if not in the United States. This appeal by the President was made through the Governors of the different States. Governor Sleeper, after finding that The Michigan State Bar Association had a complete organization, and The American Bar Association a much less complete one in Michigan, selected our Association to assist him and some of his advisers in choosing this Legal Advisory Board. The officers of the Association called upon were very glad indeed to render this assistance. I have reason to believe that the Boards so appointed, and the Associate Members, did their duty. However, Major Petermann, Judge Advocate General of Michigan, will explain to us tomorrow just what was accomplished by these several Boards.

Early in the year, as secretary, I received advices from the Subcommittee for War Service of the American Bar Association that constant demands from the several departments of the government were being made for men with legal training; that the American Bar Association had been selected to assist in this work; and that our Association was asked to lend a helping hand. I prepared and sent to each member of the Association a circular letter containing this information, asking for the return to me of the cards setting forth the qualifications, etc., of such members as felt that they could devote their time to government service. I received about one hundred replies to

this circular, most of which contained very specific data. All of these cards have been classified and forwarded to the Sub-Committee for War Service at Washington for such action as they may deem advisable, the request having been made that they communicate with me for such additional information as they may require. As soon as I hear from this Committee as to individual applications, I will communicate with the several gentlemen.

I believe that the members of the Association, as well as the legal fraternity in general, can look back with some pride on the work performed by them in the service of the government, in the assistance which they gave to registrants, in the making out of the questionnaires during the early part of the year. The work was done willingly and conscientiously, so far as I have been able to learn, as has any work for which we have been called upon in aiding soldiers' dependents.

Not only have the members of the legal profession who have stayed at home, done what they could, but from our Association alone, from the partial list which I have been able to obtain, something over thirty members are now in the service, and part, at least, in France. I am informed also by the President, from a list which he has kept, that over 75 gentlemen of the legal profession from Michigan are now in the service, and more going daily.

One other matter accomplished by the Association, which is of immense value to every member, is the advance sheets containing the decisions of the Michigan Supreme Court, and issued weekly. It was through the efforts of this Association that this work was finally accomplished.

During the year, through the efforts of the Membership Committee and the President of the Association, 104 new members have been added to our list, and only eight have withdrawn, most of these owing to removal from the State or discontinuance of practice. I regret to state, however, that twelve of our members have been taken by death during the year.

At the suggestion of President Hamilton, a new system of membership cards has been inaugurated. These cards are in size suitable for pocket use, and we hope may be of some service to the members. Renewals will be sent out as dues are paid each year. If any member has not a card at this time, such card will be furnished by the secretary.

The Association was never in a more flourishing condition, and all the officers, as well as each member, seem at all times ready to do anything and everything possible to help the work along.

At the last session of the Association a resolution was passed authorizing the appointment of a Committee to procure a suitable portrait of Judge R. M. Montgomery, to be hung in the Supreme Court room at Lansing. This Committee was appointed from the Bar of Grand

## PROCEEDINGS OF

Rapids, who procured such a portrait, which was exhibited in the Chicago Art Institute, and was highly commended by the critics. The cost of the portrait was \$500. Part of this expense was contributed by the members of the Grand Rapids Bar Association, and the total from that source, and from the members of, the State Bar Association amounts to about \$300. This leaves a small balance to be paid, for which some provisions should be made.

## FINANCES.

Balance in hands of Secretary at last annual meeting.....	\$ 190.00
Amount collected from members' dues, 1918.....	1122.00

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\$1312.00

1917.

July 18, Remitted to Treasurer.....	\$ 84.00
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Sept. 12, Remitted to Treasurer.....	110.00
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1918.

Feb. Remitted to Treasurer.....	114.00
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Feb. 7, Remitted to Treasurer.....	410.00
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Mar. 14, Remitted to Treasurer.....	200.00
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June 12, Remitted to Treasurer.....	132.00
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1050.00

Balance in hands of Secretary.....	\$ 262.00
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I thank the members of the Association for the many courtesies extended to me during the year.

Respectfully submitted,

HARRY A. SILSBEE,

Secretary.

## REPORT OF TREASURER.

WILLIAM E. BROWN, TREASURER, IN ACCOUNT WITH THE  
MICHIGAN STATE BAR ASSOCIATION.

To the President, Officers and Members of  
the Michigan State Bar Association.

I herewith submit my report of receipts and disbursements for the year ending June 28th, 1918:

## RECEIPTS.

June 29, 1917, To balance on hand .....	\$ 494.03
July 20, 1917, To dues received from Secretary.....	84.00
Sept. 13, 1918, To dues received from Secretary.....	110.00
Mar. 8, 1918, To dues received from Secretary.....	524.00
Mar. 20, 1918, To dues received from Secretary.....	200.00
June 18, 1918, To dues received from Secretary.....	132.00

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\$1,544.03

## DISBURSEMENTS

## 1917.

July 2, By check 233, Claude S. Carney. ....	\$ 23.55
July 2, By check 234, Allen & DeKleine Co.....	46.39
July 7, By check 235, Lawrence & VanBuren Printing Co....	12.00
July 7, By check 236, The Ripley & Gray Printing Co.....	16.50
July 7, By check 237, Hon. Atlee Pomerene.....	52.76
July 20, By check 238, Handelink & Luther.....	65.00
July 28, By check 239, Grand Rapids Association of Commerce	12.00
July 28, By check 240, Grand Rapids Bar Association.....	25.00
Aug. 16, By check 241, Claude S. Carney.....	25.13
Sept. 13, By check 242, H. A. Silsbee.....	120.84
Sept. 13, By check 243, The Ripley & Gray Printing Co.....	24.50

## 1918.

Mar. 8, By check 244, The Ripley & Gray Printing Co.....	9.50
Mar. 8, By check 245, Lawrence & VanBuren Printing Co....	6.00
Mar. 8, By check 246, Harry Silsbee.....	321.30
April 3, By check 247, Ripley & Gray .....	5.00
June 18, By check 248, Lawrence & VanBuren Printing Co....	33.75
Mar. 19, By check 249, Wynkoop Hallenbeck Crawford Co....	326.25
June 18, By check 250, H. A. Silsbee.....	46.70
Balance on hand.....	371.86

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Total.....\$1544.03

Respectfully submitted,

WM. E. BROWN,

Treasurer.

To the Michigan State Bar Association:

Gentlemen:—Your Auditing Committee have checked over the Treasurer's report and accounts and find the same correct and he accounts for the money which the Secretary reports as having turned over to him.

Dated June 29th, 1918.

CHARLES L. DIBBLE,  
C. W. PERRY,  
JOHN M. DUNHAM.  
Auditing Committee.

**OFFICERS, COMMITTEES**

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**LIST OF MEMBERS**

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**MEMBERS BY CITIES**

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**LIST OF DECEASED MEMBERS**



# OFFICERS OF THE AMERICAN BAR ASSOCIATION 1918-1919

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## PRESIDENT.

George T. Page, Peoria, Ill.

## SECRETARY.

George Whitelock, Munsey Bldg., Baltimore, Md.

## ASSISTANT SECRETARY.

W. Thomas Kemp, Munsey Bldg., Baltimore, Md.

## TREASURER.

Frederick E. Wadhams, 78 Chapel St., Albany, N. Y.

## VICE-PRESIDENT FOR MICHIGAN.

Burritt Hamilton, Kingman Bldg., Battle Creek.

## MEMBER OF GENERAL COUNCIL FOR MICHIGAN.

John B. Corliss, Ford Bldg., Detroit.

## LOCAL COUNCIL.

Burritt Hamilton, Battle Creek.

Fred A. Maynard, Grand Rapids.

F. L. Dodge, Lansing.

A. H. Ryall, Escanaba.

Adolph Sloman, Detroit.

## OFFICERS OF MICHIGAN STATE BAR ASSOCIATION

1918-1919.

## OFFICERS.

President.....George Clapperton, Grand Rapids  
 Vice-President.....Claude S. Carney, Kalamazoo  
 Secretary.....Harry A. Silsbee, Lansing  
 Treasurer.....William E. Brown, Lapeer

## DIRECTORS.

First Congressional District.....James Turner, Detroit  
 Second Congressional District.....Henry M. Bates, Ann Arbor  
 Third Congressional District.....H. Clair Jackson, Kalamazoo  
 Fourth Congressional District.....Thos. J. Cavanaugh, Paw Paw  
 Fifth Congressional District.....W. J. Landman, Grand Rapids  
 Sixth Congressional District.....Walter S. Foster, Lansing  
 Seventh Congressional District.....P. H. Phillips, Port Huron  
 Eighth Congressional District.....George Pardee, Owosso  
 Ninth Congressional District.....Parm C. Gilbert, Traverse City  
 Tenth Congressional District.....C. W. Hitchcock, Bay City  
 Eleventh Congressional District.....Sherman T. Handy, Sault Ste. Marie  
 Twelfth Congressional District.....A. B. Eldredge, Ishpeming  
 Thirteenth Congressional District.....Adolph Sloman, Detroit

## COMMITTEES OF MICHIGAN STATE BAR ASSOCIATION

1918-1919.

## COMMITTEE ON AMERICAN PROPAGANDA AND PROMOTION OF GOOD CITIZENSHIP.

Prof. Edw. C. Goddard, Chairman, Ann Arbor, Mich.  
 Prof. H. L. Wilgus, Ann Arbor, Burritt C. Hamilton, Battle Creek  
 Major A. E. Petermann, Calumet, Harry A. Silsbee, Lansing

## COMMITTEE ON LEGISLATION AND LAW REFORM.

William W. Potter, Chairman, Hastings.  
 Walter S. Foster, Lansing, E. R. Sutherland, Ann Arbor.  
 A. H. Ryall, Escanaba, Benn M. Corwin, Grand Rapids

## COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR.

Prof. Henry M. Bates, Chairman, Ann Arbor.  
 Charles W. Nichols, Lansing, Marshall M. Uhl, Grand Rapids  
 Clarence A. Lighner, Detroit, Forrest C. Badgley, Jackson

## COMMITTEE ON GRIEVANCES.

Walter I. Lillie, Chairman, Grand Haven.  
 Myron H. Walker, Grand Rapids. John C. Stone, Houghton  
 Hon. A. J. Groesbeck, Detroit.

## COMMITTEE ON MEMBERSHIP.

Sherman T. Handy, Chairman, Sault Ste. Marie.  
 Charles N. Belcher, Manistee. Wallace Craig Smith, Saginaw  
 Harry A. Silsbee, Lansing.

## HISTORICAL COMMITTEE.

Joseph Dunnebacke, Chairman, Lansing.  
 Hon. Claudius B. Grant, Detroit. Mr. Burritt Hamilton, Battle Creek  
 Mr. George W. Bates, Detroit.

## COMMITTEE ON LOCAL BAR ASSOCIATION.

Burritt Hamilton, Battle Creek, Chairman.  
 Hon. Guy M. Chester, First Judicial Circuit.....Hillsdale, Mich.  
 R. E. Barr, Second Judicial Circuit.....St. Joseph, Mich.  
 Adolph Sloman, Third Judicial Circuit.....Detroit, Mich.

## SPECIAL COMMITTEE.

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Butterfield, Roger W.	Grand Rapids
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Guernsey, A. L.	Hillsdale.

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## I

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Lillie, Leo C.	Grand Haven
Lillie, Walter I.	Grand Haven
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McBride, Homer J.	Flint
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Mathews, John T.	Ithaca
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Mecham, J. Leland	Battle Creek
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Miller, F. C.	Ironia
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Moore, Wm. V., Wayne Co. Savings Bank Bldg.	Detroit
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Murnin, J. O., Dime Bank Bldg.	Detroit
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Myers, John W.	Ithaca

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Nichols, Chas. W.	Lansing
Nichols, James K.	Ionia
Norcross, Geo. S.	Grand Rapids
Norris, Mark	Grand Rapids
North, Walter H.	Battle Creek
Nunneley, B. V.	Mt. Clemens
Nutton, Wesley L., 1540 Penobscot Bldg.	Detroit

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O'Connor, Joseph J.	L'Anse
O'Hara, John J.	Menominee
O'Hara, John P., 1206 Majestic Bldg.	Detroit
O'Neill, James A.	Ironwood
Olivier, Chas. O.	Hancock
Onen, B. J.	Battle Creek
Osborn, Donald C.	Kalamazoo
Osterhaus, Louis H.	Grand Haven
Ostrander, Russell C.	Lansing
Overpack, Roy M.	Manistee
Oxtoby, James V., Dime Bank Bldg.	Detroit

## P.

Paddock, Lewis H., Penobscot Bldg.	Detroit
Pailthorp, C. J.	Petoskey
Paine, DeForest, Penobscot Bldg.	Detroit
Pagelson, Daniel F.	Grand Haven
Palmer, E. E.	Coldwater
Palmer, Harold	Coldwater
Palmer, L. C.	Stanton
Pardee, George E.	Owosso
Parker, W. J.	Corunna
Parker, Jas. S.	Flint
Parker, R. A., Moffat Block	Detroit
Patchin, J. W.	Traverse City
Pelham, H. M.	Iron Mountain
Pendleton, E. W., Dime Bank Bldg.	Detroit
Pengra, Otis	Sebewaing
Pepper, Samuel D.	Lansing
Perkins, Willis B.	Grand Rapids
Perry, Chas. W.	Clare
Parkinson, J. A.	Jackson
Patterson, John H.	Pontiac

Penny, A. W.	Cadillac
Perry, Geo. B., Penobscot Bldg.	Detroit
Perry, Judson M., 619 Moffat Bldg.	Detroit
Peterson, Seymour H.	Lansing
Peter, Jas. B.	Saginaw
Petermann, Albert E.	Calumet
Peters, Elmer N.	Charlotte
Phalen, John	Ludington
Phelps, Earl E., Court House	Grand Rapids
Phillips, P. H.	Port Huron
Pierpont, Warren	Owosso
Pierston, Alfred P.	Escanaba
Porter, Edward W.	Bay City
Porter, Wm. H.	Marshall
Potter, Waldo T.	Ishpeming
Potter, Wm. W.	Hastings
Power, Geo. S.	Iron Mountain
Powers, Walter S.	Battle Creek
Powers, James M.	Battle Creek
Prentiss, Geo. H., Dime Bank Bldg.	Detroit
Prescott, John S.	Battle Creek
Price, Richard	Jackson
Primeau, Jos. H., 2524 Jefferson Ave.	Detroit
Pulver, Seth Q.	Owosso

## Q.

Quall, Robert J.	Ludington
Quinn, Frank O.	Saginaw

## R.

Raudabaugh, Richard	Lansing
Reardon, W. E.	Midland
Reasoner, James M.	Lansing
Reber, Harry D.	Fremont
Rees, Allen F.	Houghton
Reilley, C. S.	Cheboygan
Retan, Clare	Lansing
Rexford, D. C., Buhl Block	Detroit
Reynolds, Carl H.	Lansing
Rhoads, Samuel H.	Lansing
Rice, Cyrus W.	Grand Rapids
Riggs, J. Culver	Hillsdale
Rigler, Ralph W.	Ann Arbor
Riley, Thos. J.	Escanaba
Ritze, C. C.	Iron River
Roberts, Clinton	Flint
Robertson, Chas. L.	Adrian
Robinson, Carl A.	Marshall
Robinson, Thos. N.	Holland
Robinson, Deen L.	Houghton
Robson, Frank E., M. C. R. R. Bldg.	Detroit
Rockwell, K. P.	Pontiac
Rockwith, Frank A.	Saginaw
Rood, John R.	Ann Arbor
Rosenberg, Louis J., Ford Bldg.	Detroit
Ross, John Q.	Muskegon
Rossman, H. J.	Jackson
Rushton, H. J.	Escanaba
Russell, Henry, M. C. R. R. Depot	Detroit
Russell, Franklin J.	Adrian
Ryall, Arthur H.	Escanaba
Ryan, Vincent D.	Bay City

## S.

Sabin, Leland H.	Battle Creek
Sample, Geo. W.	Ann Arbor
Sanders, Joseph, 1140 Penobscot Bldg.	Detroit
Sauer, Alfred H.	Pigeon
Sayre, F. P.	Flushing
Sayres, William S. Jr., Federal Bldg.	Detroit
Schell, F. R.	Port Huron
Schulte, H. C.	Houghton

Schurtz, Shelby B.	Grand Rapids
Schuur, R. Paul	Kalamazoo
Searle, Kelly S.	Ithaca
Seegmiller, W. A.	Owosso
Selby, Guy W.	Flint
Seelye, W. S.	Lansing
Shaberg, Marvin J.	Kalamazoo
Sharpe, D. B.	Kalamazoo
Shaw, Frank E.	Grand Rapids
Sheldon, B. Skiff	Houghton
Shepherd, Frank	Cheboygan
Shepherd, James F.	Cheboygan
Sherwood, M. J.	Marquette
Shields, Edmund C.	Lansing
Shine, John W.	Sault Ste. Marie
Shipman, F. C., Union Trust Bldg.	Detroit
Silber, Harry A.	Lansing
Simon, Frank J.	Albion
Simonson, Alex. B.	Sandusky
Sloan, J. T.	Centerville
Sloman, Adolph, Penobscot Bldg.	Detroit
Sloman, Edmund N., Penobscot Bldg.	Detroit
Slyfield, Henry S., 2206 Dime Bank Bldg.	Detroit
Smedley, C. O.	Grand Rapids
Smith, Clement	Hastings
Smith, Hal H., Ford Bldg.	Detroit
Smith, J. M. C.	Charlotte
Smith, Elmer G.	Atlanta
Smith, Frank Day, 306 Hammond Bldg.	Detroit
Smith, Hiram R.	Roscommon
Smith, O. L.	Ithaca
Smith, R. W.	Manistee
Smith, Wallis Craig	Saginaw
Smith, Wm. V.	Flint
Smith, Wm. Alden	Grand Rapids
Smith, W. M.	St. Johns
Snow, A. Elwood	Saginaw
Snyder, C. H. W.	Tawas City
Snyder, Emil W., Majestic Bldg.	Detroit
Souter, Robert M.	Port Huron
Souter, H. Dale	Grand Rapids
Spaulding, H. E., Dime Bank Bldg.	Detroit
Spencer, James B.	Iron Mountain
Spears, W. J.	Vassar
Splunney, John D.	Alma
Sprague, Victor D.	Cheboygan
Stace, Francis A.	Grand Rapids
Stanford, Geo. B.	Midland
Standart, Joseph, Farwell Bldg.	Detroit
Stanley, Fred G.	Kalamazoo
Stearns, Clare H.	Kalamazoo
Stein, Christopher E., Police Court	Detroit
Steinkohl, W. F.	Lansing
Stellwagen, A. C., Home Bank Bldg.	Detroit
Stewart, Louis E.	Battle Creek
Stewart, Gordon L.	Kalamazoo
Stewart, Shirley	Port Huron
Stewart, N. H.	Kalamazoo
Stevens, Mark W.	Flint
Stivers, Frank A.	Ann Arbor
Stockwell, Elmer E.	Pontiac
Stoddard, John L.	Bay City
Stone, John W.	Lansing
Stone, John G.	Houghton
Stone, Ralph, Detroit Trust Co.	Detroit
Storkun, E. E.	Ironwood
Stratton, C. W.	St. Joseph
Strom, Torval E.	Escanaba
Sunderland, E. R.	Ann Arbor
Sullivan, James E.	Muskegon
Sullivan, Thomas	Hastings
Sullivan, Frank P.	Sault Ste. Marie
Swan, James, McGraw Bldg.	Detroit

## T.

Taggart, Ganson	Grand Rapids
Tanner, Elwynn	Flint
Taylor, Orla B., Butler Bldg.	Detroit
Taylor, Walter R.	Kalamazoo
Temple, Chas. E.	Grand Rapids
Thomas, Chas. E.	Battle Creek
Thomas, Willber F.	Constantine
Thomas, John D.	Ann Arbor
Thomas, Harris E.	Lansing
Tillson, John A.	Pontiac
Titus, Albion B.	Kalamazoo
Titus, Lincoln H.	Kalamazoo
Torbert, Hugh L., Dime Bank Bldg.	Detroit
Travis, DeHull N.	Flint
Travis, P. H.	Grand Rapids
Trucks, Ray	Baldwin
Turner, Raymond	Norway
Turner, James, Union Trust Bldg.	Detroit
Turner, Willard G. Jr.	Muskegon
Tuttle, Arthur J.	Detroit
Tweddle, I. J.	Traverse City

## U.

Uhl, Marshall M.	Grand Rapids
Underwood, M. W.	Traverse City

## V.

Van Ameringen, V. E.	Ann Arbor
Van Benschoten, C. M.	Flint
Van Horn, S. H.	Kalamazoo
Vincent, Bird J.	Saginaw
Visscher, Raymond	Holland

## W.

Walbridge, H. E.	St. Johns
Walker, Myron H., Federal Bldg.	Grand Rapids
Walling, Eugene A., Dime Bank Bldg.	Detroit
Walters, Henry C., Ford Bldg.	Detroit
Walsh, John J.	Ontonagon
Walsh, Joseph	Port Huron
Walsh, William R.	Port Huron
Waples, H. J.	Ironwood
Ward, Chas. E.	Grand Rapids
Ware, Wm. E.	Battle Creek
Warner, David A.	Grand Rapids
Warner, Frank R.	Sault Ste. Marie
Warner, Glenn E.	Paw Paw
Warner, Wm. W.	Allegan
Warner, Fred L.	Belding
Warren, Benj. S., Ford Bldg.	Detroit
Warren, Chas. B., Union Trust Bldg.	Detroit
Watkins, Roy M.	Grand Rapids
Wattles, Stephen H.	Kalamazoo
Wattles, I. N.	Kalamazoo
Weadock, George L.	Saginaw
Weadock, George W.	Saginaw
Weadock, Thos. A. E., Hammond Bldg.	Detroit
Weadock, Bernard F., Woodward Ave.	Detroit
Weadock, Jerome J.	Saginaw
Weadock, Lewis J.	Bay City
Weadock, John V.	Saginaw
Weadock, John C., 14 Wall St.	New York
Weage, Stanley E.	Coldwater
Webster, Elmer R.	Pontiac
Webster, Clyde I., Majestic Bldg.	Detroit
Welder, Herman A.	Houghton
Welmer, George V.	Kalamazoo
Weldon, Ara	Benton Harbor
Welsh, Chas. F.	Detroit
West, Robert J.	DeKerville
Westerman, Walter S.	Jackson

Weston, Frank S.	Kalamazoo
Wetmore, Fred C.	Cadillac
Whipple, E. Frank, 311 Majestic Bldg.	Detroit
White, Milo A.	Fremont
White, Charles E.	Niles
Wicks, Kirk E.	Grand Rapids
Widdis, Albert	Tawas City
Wiest, Howard	Lansing
Wiley, Merlin	Sault Ste. Marie
Wilgus, H. L.	Ann Arbor
Wilkins, Chas. T., Hammond Bldg.	Detroit
Williams, Wm. B.	Lapeer
Williams, Arthur B.	Battle Creek
Williams, Benjamin	Jackson
Williams, William K., 18 Buhl Block	Detroit
Wilson, J. Frank	Port Huron
Wilson, Hugh E.	Grand Rapids
Wilson, Dwight L.	East Jordan
Wilson, Floyd A.	Saginaw
Windsor, Herbert E.	Marshall
Wixson, Walter S.	Caro
Wolcott, Grove H.	Jackson
Wolf, G. A.	Grand Rapids
Woodruff, Chas. M., 475 E. Grand Boulevard	Detroit
Worcester, Alpheus A.	Big Rapids
Worch, Rudolph	Jackson
Wykes, Roger Irving	Grand Rapids
Wunsch, Henry, Moffat Bldg.	Detroit
Y.	
Yearnd, William H.	Cadillac
Yelland, Judd	Escanaba
Yerkes, C. C.	Northville
Yerkes, Geo. B., Home Bank Bldg.	Detroit

## MEMBERS BY CITIES.

## ADRIAN.

(Lenawee County.)

Alexander, W. B.  
 Baker, James H.  
 Baldwin, Clark E.  
 Bird, John E.  
 Clark, Herbert R.  
 Hart, B. L.  
 Jewitt, Henry R.  
 Michener, Earl C.  
 Robertson, Charles L.  
 Russell, Franklin J.

## ALBION.

(Calhoun County.)

Cooper, Adrian F.  
 Loud, Edward R.  
 Simon, Frank J.

## ALLEGAN.

(Allegan County.)

Cross, Orlen S.  
 Warner, Wm. W.

## ALMA.

(Gratiot County.)

Green, James A.  
 Kress, James G.  
 Spinney, John D.

## ALPENA.

(Alpena County.)

Canfield, I. S.  
 Henry, Carl R.  
 Hinks, Frank T.

## ANN ARBOR.

(Washtenaw County.)

Bates, Henry M.  
 Bonisteel, Roscoe O.  
 Bunker, Robt. E.  
 Burke, George J.  
 Cavanagh, M. J.  
 DeVine, Frank B.  
 Durfee, Edgar N.  
 Fahrner, Jacob F.  
 Goddard, Edwin C.  
 Haab, Otto E.  
 Holbrook, Evans  
 Hutchins, Harry B.  
 Kinne, E. D.  
 Lane, Victor H.  
 Rigler, Ralph W.  
 Rood, John R.  
 Sample, George W.  
 Stivers, Frank A.  
 Sunderland, E. R.  
 Thomas, John D.

Van Ameringen, V. E.  
 Wilgus, H. L.

## ATLANTA.

(Montmorency County.)

Smith, Elmer G.

## BAD AXE.

(Huron County.)

Bope, Wm. T.  
 Clark, George M.

## BALDWIN.

(Lake County.)

Trucks, Ray.

## BATTLE CREEK.

(Calhoun County.)

Allen, Maxwell B.  
 Bailey, John W.  
 Beck, Ira A.  
 Cleary, James  
 Davis, John C.  
 Ford, Albert N.  
 Goodrich, Cyrus J.  
 Hamilton, Burritt.  
 Hooper, Joseph L.  
 Jacobs, Henry F.  
 Kirschman, Robert H.  
 Knight, Willard A.  
 Leitch, R. G.  
 Main, Verner W.  
 Mechem, George W.  
 Mechem, J. Leland.  
 North, Walter H.  
 Onen, B. J.  
 Powers, Walter S.  
 Powers, James M.  
 Prescott, John S.  
 Sabin, Leland H.  
 Stewart, Louis E.  
 Thomas, Charles E.  
 Ware, William E.  
 Williams, Arthur B.

## BAY CITY.

(Bay County.)

Baker, Oscar W.  
 Black, Albert W.  
 Clarke, E. S.  
 Collins, W. A.  
 Coumans, Louis P.  
 Duffy, James E.  
 Gaffney, Hubert J.  
 Hewitt, John C.  
 Hiltchcock, Charles W.  
 Houghton, Samuel C.  
 Kinnane, J. E.  
 Lane, Robert H.

McMillan, Archibald N.  
Porter, Edward W.  
Ryan, Vincent D.  
Stoddard, John L.  
Weadock, Lewis J.

**BELDING.**  
(Ionia County.)

Hubbell, I. L.  
Warner, Fred L.

**BENTON HARBOR.**  
(Berrien County.)

Gore, Victor M.  
Gray, Humphrey S.  
Weldon, Ara.

**BERRIEN SPRINGS.**  
(Berrien County.)

Kavanagh, Charles H.

**BESSEMER.**  
(Gogebic County.)

Baird, William S.  
Brogan, Byron M.

**BIG RAPIDS.**  
(Mecosta County.)

Cogger, H. J.  
Cogger, Albert B.  
Dumon, John E.  
Worcester, Alpheus A.

**BOYNE CITY.**  
(Charlevoix County.)

Harris, J. M.

**CADILLAC.**  
(Wexford County.)

Ardis, Walter R.  
Lamb, Fred S.  
Penny, A. W.  
Wetmore, Fred C.  
Yearud, William H.

**CALUMET.**  
(Houghton County.)

Galbraith, Wm. J.  
Kerr, John D.  
Petermann, Albert E.

**CARO.**  
(Tuscola County.)

Wixson, Walter S.

**CASSOPOLIS.**  
(Cass County.)

Carr, John R.  
Cone, Chester E.  
Eck, U. S.  
Hayden, Asa K.  
Lyle, Clarence M.

**CENTERVILLE.**  
(St. Joseph County.)

Sloan, J. T.

**CHARLEVOIX.**  
(Charlevoix County.)

Lewis, R. L.

**CHARLOTTE.**  
(Eaton County.)

Boyles, E. R.  
Dean, Frank A.  
McPeck, Russell R.  
Peters, Elmer N.  
Smith, J. M. C.

**CHEBOYGAN.**  
(Cheboygan County.)

Cross, Wm. N.  
Reilley, C. S.  
Shepherd, Frank  
Shepherd, James F.  
Sprague, Victor D.

**CLARE.**  
(Clare County.)

Perry, Charles W.

**COLDWATER.**  
(Branch County.)

Barlow, Burt E.  
Barlow, H. H.  
Champion, Charles T.  
Palmer, Harold  
Palmer, E. E.  
Weage, Stanley E.

**CONSTANTINE.**  
(St. Joseph County.)

Thomas, Wilbur F.

**CORUNNA.**  
(Shlawassee County.)

Collins, Joseph H.  
McCurdy, John T.  
Parker, W. J.

**DECKERVILLE.**  
(Sanilac County.)

West, Robert J.

**DELRAY.**  
(Wayne County.)

Coulson, Charles L.

**DETROIT.**  
(Wayne County.)

Altland, D. F., Penobscot Bldg.  
Angell, Alexis C., Dime Bank Bldg.  
Antisdell, John P., Union Trust Bldg.  
Austin, F. R., 720 Penobscot Bldg.  
Backus, Standish, Ford Bldg.

- Baker, F. A., Whitney Opera House Bldg.  
 Barbour, Levi L., Buhl Block.  
 Barnes, Stuart C., Ford Bldg.  
 Bates, George W.  
 Beaumont, John W., Ford Bldg.  
 Beckenstein, Joseph R., 702 Majestic Bldg.  
 Behr, Fred A., 1026 Dime Bank Bldg.  
 Benjamin, Maxwell W., 720 Dime Bank Bldg.  
 Bissell, John H., 80 Griswold St.  
 Bland, J. Edward, Postoffice Bldg.  
 Bodman, Henry C., Union Trust Bldg.  
 Bogle, Henry C., Union Trust Bldg.  
 Bowen, Herbert, 33 Forest Ave.  
 Boyle, Patrick, 30 Buhl Block.  
 Braun, Max, 1140 Penobscot Bldg.  
 Broomfield, Archibald, 98 Glynn Court.  
 Bulkley, Harry C., Union Trust Bldg.  
 Butler, W. V., 84 Griswold St.  
 Butzel, Leo M., Ford Bldg.  
 Butzel, Henry M., Union Trust Bldg.  
 Cady, William B., Union Trust Bldg.  
 Callender, Sherman D., Dime Bank Bldg.  
 Campbell, Arthur D., Majestic Bldg.  
 Campbell, Chas. H., Union Trust Bldg.  
 Campbell, Henry M., Union Trust Bldg.  
 Carpenter, Wm. L., Ford Bldg.  
 Chamberlain, Robt. M., Dime Bank Bldg.  
 Choate, Ward N., Dime Bank Bldg.  
 Clark, Levert, Buhl Block.  
 Clark, Joseph H., Hammond Bldg.  
 Cook, Frank C., 1223 Majestic Bldg.  
 Corliss, John B., Ford Bldg.  
 Chilson, H. C., 1706 Dime Bank Bldg.  
 Covert, Arthur H., 1127 Majestic Bldg.  
 Cornelius, Asber, 1018 Penobscot Bldg.  
 Coskey, Tobias, 64 Buhl Block.  
 Cowles, Israel T., Union Trust Bldg.  
 Cyrowski, August, 702 Penobscot Bldg.  
 Denby, Edwin, Moffat Block.  
 Dickinson, Philip S., Penobscot Bldg.  
 Doetsch, Felix A., Union Trust Bldg.  
 Donovan, Percy J., Penobscot Bldg.  
 Donnelly, Edward, Ford Bldg.  
 Douglas, Samuel T., Ford Bldg.  
 Duffield, Bethune, Union Trust Bldg.  
 Durfee, Edgar O., Probate Court.  
 Eliman, James D., 1140 Penobscot Bldg.  
 Engand, Howell S., Dime Bank Bldg.  
 Essery, Carl V., Union Trust Bldg.  
 Finan, Carl B., Majestic Bldg.  
 Fitzpatrick, W. G., Ford Bldg.  
 Foley, Daniel R., 1626 Penobscot Bldg.  
 Friedman, William, 1517 Dime Bank Bldg.  
 Fuller, Ernest M., 48 Buhl Block.  
 Fuss, Alexander, 375 Alger Ave.  
 Gage, Henry F., 402 Union Trust Bldg.  
 Garvett, Morris, Penobscot Bldg.  
 Goff, John H., Union Trust Bldg.  
 Goldstick, N. H., 2119 Dime Bank Bldg.  
 Goodenough, L. W., Hammond Bldg.  
 Graves, Henry B., Hammond Bldg.  
 Grawn, Carl B., 1109 Ford Bldg.  
 Gray, Robert T., Ford Bldg.  
 Gray, Wm. J., Ford Bldg.  
 Groesbeck, A. J., Majestic Bldg.  
 Heller, Fritz, 610 Breitmeyer Bldg.  
 Hall, A. B., Hammond Bldg.  
 Hamblen, Joseph G. Jr., Union Trust Bldg.  
 Hanly, Stewart, 1604 Dime Bank Bldg.  
 Harwood, Frederic T., Ford Bldg.  
 Heineman, D. E., 1706 Dime Bank Bldg.  
 Helfman, Harry, Ford Bldg.  
 Hicks, Arthur P., 918 Ford Bldg.  
 Hill, Sherman A., Union Trust Bldg.  
 Hosmer, George S., 51 Elliot St.  
 Hughes, Ben Chapoton, 702 Farwell Bldg.  
 January, W. L., Buhl Block.  
 Jones, Arthur, Hammond Bldg.  
 Kenna, James T., Peoples State Bank Bldg.  
 Klein, George H., 1301 Ford Bldg.  
 Kuhn, Franz C., 1018 Majestic Bldg.  
 Lacy, A. J., Moffat Bldg.  
 Ladd, S. W., Union Trust Bldg.  
 Lechner, Julius J., Dime Bank Bldg.  
 Leete, Thomas T. Jr., 1424 Ford Bldg.  
 Lewis, Edwin C., Ford Bldg.  
 Lewis, Charles E., Union Trust Bldg.  
 Lightner, Clarence A., Dime Bank Bldg.  
 L'Mauer, Henry E., 471 Philip Ave.  
 Lockwood, Harry A., 1301 Ford Bldg.  
 Long, Thomas G., Ford Bldg.  
 Lucking, Alfred, Ford Bldg.  
 Lucking, William, Ford Bldg.  
 Lyster, Henry L., 1702 Ford Bldg.  
 McCorkle, Wm. F., Ford Bldg.  
 McCredie, William R., Dime Bank Bldg.  
 McDonald, Charles S., Hammond Bldg.  
 McDonald, James H., 1323 Woodward Ave.  
 McHugh, Philip A., Majestic Bldg.  
 McIntyre, Harold, 730 Penobscot Bldg.  
 MacKay, John D., Dime Bank Bldg.  
 McKee, Mark T., 937-9 Dime Bank Bldg.  
 McMillan, Phillip H., Union Trust Bldg.  
 McNamara, James, 2026 Dime Bank Bldg.  
 Maguire, Arthur D., Hammond Bldg.  
 Marsh, Pilny W., Free Press Bldg.  
 Martin, Frank A., 30 Buhl Block.  
 Merriam, S. L., Penobscot Bldg.  
 Miller, Sidney T., Penobscot Bldg.  
 Mills, Wade, 1403-7 Ford Bldg.  
 Monaghan, Geo. F., Ford Bldg.  
 Monnig, Edwin R., 25 Buhl Block.  
 Moody, Paul B., Ford Bldg.  
 Moody, Frank B., Ford Bldg.  
 Moore, Geo. Wm., Campau Bldg.

Moore, Wm. V., Wayne Co. Sav.  
Bank Bldg.  
Morgan, Ira F., 1256 Penobscot Bldg.  
Mulford, Benj. F., Dime Bank Bldg.  
Murnin, James O., Dime Bank Bldg.  
Nutton, Wesley L., 1540 Penobscot  
Bldg.  
O'Brien, M. Hubert, Ford Bldg.  
O'Hara, John P., 1206 Majestic Bldg.  
Oxtoby, James V., Dime Bank Bldg.  
Paddock, Lewis H., Penobscot Bldg.  
Paine, DeForest, Penobscot Bldg.  
Parker, R. A., Moffat Block.  
Pendleton, E. W., Dime Bank Bldg.  
Perry, George B., Penobscot Bldg.  
Perry, Judson, 619 Moffat Block.  
Prentiss, Geo. H., Dime Bank Bldg.  
Primeau, Joseph H., Jr., 2524 Jeffer-  
son Ave.  
Rexford, D. C., Buhl Block.  
Robson, Frank E., M. C. R. R. Bldg.  
Rosenberg, Louis J., Ford Bldg.  
Russell, Henry, M. C. R. R. Depot.  
Sanders, Joseph, 1140 Penobscot  
Bldg.  
Sayres, Wm. S. Jr., Federal Bldg.  
Shipman, F. C., Union Trust Bldg.  
Sloman, Adolph, Penobscot Bldg.  
Sloman, Edmund, Penobscot Bldg.  
Slyfield, Henry S., 2206 Dime Bank  
Bldg.  
Smith, Frank Day, 306 Hammond  
Bldg.  
Smith, Hal H., Ford Bldg.  
Snyder, Emil W., Majestic Bldg.  
Spalding, H. E., Dime Bank Bldg.  
Standart, Joseph, 420 Farwell Bldg.  
Stein, Christopher E., Police Court.  
Stellwagen, A. C., Home Bank Bldg.  
Stone, Ralph, Detroit Trust Co. Bldg.  
Swan, James, McGraw Bldg.  
Taylor, Orla R., 18 Butler Bldg.  
Torbert, Hugh L., Dime Bank Bldg.  
Turner, James, Union Trust Bldg.  
Tuttle, Arthur J., Federal Bldg.  
Walters, Henry C., Ford Bldg.  
Walling, Eugene A., 2011 Dime Bank  
Bldg.  
Warren, Benj. S., 1205 Ford Bldg.  
Warren, Charles B., Union Trust Co.  
Bldg.  
Weadock, Thomas A. E., Hammond  
Bldg.  
Wendock, Bernard F., 12 Woodward  
Ave.  
Webster, Clyde I., County Bldg.  
Welsh, Charles F., Moffat Bldg.  
Whipple, E. Frank., 311 Majestic  
Bldg.  
Wilkins, Charles T., Hammond Bldg.  
Williams, William K., 18 Buhl Bock.  
Woodruff, Charles M., 475 Grand  
Boulevard E.  
Wunsch, Henry, Moffat Bldg.  
Yerkes, Geo. B., Home Bank Bldg.

## DOWAGIAC.

(Cass County.)

Hendryx, Coy M.  
Laing, E. Bruce.  
Mosier, Carl D.

## DURAND.

(Shlawassee County.)

Atherton, E. S.

## EAST JORDAN.

(Charlevoix County.)

Wilson, Dwight L.

## EAST TAWAS.

(Iosco County.)

French, Fremont F.  
Lyon, Charles A.

## ESCANABA.

(Delta County.)

Baker, James C.  
Pierson, Alfred P.  
Riley, Thomas J.  
Rushton, H. J.  
Ryall, Arthur H.  
Torval, E. Strom.  
Yelland, Judd.

## FLINT.

(Genesee County.)

Aitkin, D. D.  
Baker, John F.  
Carton, John J.  
Cook, George W.  
Helmes, Daniel E.  
Lee, Ed. S.  
McBride, Homer J.  
McFarlan, James H.  
Parker, James S.  
Roberts, Clinton.  
Selby, Guy W.  
Smith, William V.  
Stevens, Mark W.  
Tanner, Elwynn  
Travis, DeHull N.  
Van Benschoten, C. M.

## FLUSHING.

(Genesee County.)

Sayre, F. P.

## FREMONT.

(Newaygo County.)

Branstrom, Wm.  
Reber, Harry D.  
White, Milo A.

## GLADSTONE.

(Delta County.)

Empson, G. Raymond.  
Jackson, Glenn W.

## GRAND HAVEN.

(Ottawa County.)

Danhof, James J.  
Lillie, Walter I.  
Lillie, Leo C.  
Lillie, Hugh E.

Osterhaus, Louis H.  
Pagelson, Daniel F.

# GRAND LEDGE.

(Eaton County.)

Latting, Raymond A.

# GRAND RAPIDS.

(Kent County.)

Backus, Ella M., Govt. Bldg.  
Blair, Charles B., Mich. Trust Bldg.  
Boltwood, Lucius, Mich. Trust Bldg.  
Bradfield, Thomas P.  
Brooks, Walter H.  
Brown, George C.  
Butterfield, Roger W., Mich. Trust Bldg.  
Butterfield, Roger C., Mich. Trust Bldg.  
Campbell, Colin P., Widdicombe Bldg.  
Carmody, Martin H., Houseman Bldg.  
Carpenter, Eugene, Houseman Bldg.  
Chase, Henry E.  
Clapperton, George, Mich. Trust Bldg.  
Clute, Wm. K., Mich. Trust Bldg.  
Corwin, E. M., Houseman Bldg.  
Cunningham, Paul E., 411 Houseman Bldg.  
Dunham, John M.  
Ellis, A. A., Houseman Bldg.  
Ellis, Howard A., Houseman Bldg.  
Getb, Fred P., Houseman Bldg.  
Gellard, Joseph R.  
Gleason, Clark H.  
Hall, Clare J.  
Harrington, Leon W., Mich. Trust Bldg.  
Hatch, Reuben, Widdicombe Bldg.  
Heald, Henry T., Mich. Trust Bldg.  
Hext, Charles E., 4th Nat'l. Bank Bldg.  
Higbee, Clark E., City Hall.  
Hoffus, Cornelius.  
Jewell, Harry D.  
Keeney, Willard F., Mich. Trust Bldg.  
Kleinhans, Jacob, Mich., Trust Bldg.  
Knappen, Loyal E., Govt. Bldg.  
Landman, W. J., Houseman Bldg.  
Lawrence, J. S.  
Lillie, Charles H.  
Lombard, James A., 4th Nat'l. Bank Bldg.  
McDonald, J. S., Court House.  
McPherson, Charles, Mich. Trust Bldg.  
Maher, Edgar A., Aldrich Block.  
Mapes, Carl E.  
Maynard, F. A.  
Merrick, Benj. P., Mich. Trust Co. Bldg.  
Moulton, Luther V.  
Narcross, Geo. S.  
Norris, Mark., Mich. Trust Co. Bldg.  
O'Brien, T. J., Mich. Trust Co. Bldg.  
Perkins, Willis B., Court House.  
Phelps, Earl F., Court House.  
Rice, Cyrus W.  
Schurtz, Shelby B.  
Shaw, Frank E.  
Smedley, C. O., Houseman Bldg.

Smith, William Alden.  
Souter, H. Dale.  
Stace, Francis A.  
Taggart, Ganson, Mich. Trust Co. Bldg.  
Temple, Charles E., Mich. Trust Co. Bldg.  
Travis, P. H., Mich. Trust Co. Bldg.  
Uhl, Marshall M.  
Walker, Myron H., Federal Bldg.  
Ward, Charles E.  
Warner, David A., Mich. Trust Co. Bldg.  
Watkins, Roy M.  
Wicks, Kirk E., Houseman Bldg.  
Wilson, Hugh E., Mich. Trust Co. Bldg.  
Wolf, G. A., Mich. Trust Co. Bldg.  
Wykes, Roger I., Mich., Trust Co. Bldg.

# GRAYLING.

(Crawford County.)

Alexander, Geo. L.

# GREENVILLE.

(Montcalm County.)

Bowman, E. J.  
Cook, Martin V.  
Griswold, N. O.  
Lewis, Milo.

# HANCOCK.

(Houghton County.)

Hanchette, Charles D.  
Olivier, Charles O.

# HARRISON.

(Clare County.)

Morrissey, Francis M.

# HART.

(Oceana County.)

Greene, Leslie E.

# HASTINGS.

(Barry County.)

Colgrove, P. T.  
Potter, W. W.  
Smith, Clement.  
Sullivan, Thomas

# HILLSDALE.

(Hillsdale County.)

Chase, Paul W.  
Cornell, O. J.  
Fitzpatrick, Merton.  
Frankhauser, W. H.  
Grommon, W. D.  
Guernsey, A. L.  
Lewis, G. F.  
Riggs, J. Culver.

# HOLLAND.

(Ottawa County.)

Diekema, G. J.  
McBride, Charles H.

Robinson, Thomas N.  
Visscher, Raymond.

#### HOUGHTON.

(Houghton County.)

Legris, Louis W.  
Rees, Allen F.  
Robinson, Deen L.  
Schulte, H. C.  
Sheldon, Skiff R.  
Stone, John G.  
Welder, Herman A.

#### HUDSON.

(Lenawee County.)

Chandler, Bert D.

#### IONIA.

(Ionia County.)

Eldred, Foss O.  
Gemuend, H. H.  
Locke, Alfred R.  
Mathews, Glenn D.  
Miller, F. C.  
Morse, Allen B.  
Nichols, George E.  
Nichols, James K.

#### IRON MOUNTAIN.

(Dickinson County.)

Pelham, H. M.  
Spencer, James R.

#### IRON RIVER.

(Iron County.)

Ryers, I. W.  
McHale, John  
Power, George S.  
Ritze, C. C.

#### IRONWOOD.

(Gogebic County.)

Bay, Harry K.  
Driscoll, George O.  
Fryburger, Raymond A.  
Humphrey, Charles M.  
O'Neill, James A.  
Storkan, E. E.  
Waples, H. J.

#### ISHPEMING.

(Marquette County.)

Berg, Fred H.  
Clancey, Thomas  
Kennedy, Michael J.  
Potter, Waldo T.

#### ITHACA.

(Gratiot County.)

Mathews, John T.  
Myers, John W.  
Searle, Kelly S.  
Smith, O. L.

#### JACKSON.

(Jackson County.)

Adams, James M.  
Badgley, Forest C.  
Barkworth, T. E.  
Kirkby, Elmer.  
Parkinson, J. A.  
Price, Richard.  
Rossman, R. H.  
Westerman, Walter S.  
Williams, Benjamin.  
Wolcott, Grove H.  
Worch, Rudolph.

#### JONESVILLE.

(Hilldale County.)

Hawkins, Victor.

#### KALAMAZOO.

(Kalamazoo County.)

Alexander, John M.  
Boudeman, Dallas.  
Briggs, Henry C.  
Campbell, Robert I.  
Carney, Claude S.  
Chappell, Fred L.  
Dibble, Charles L.  
Earl, Otis A.  
Faling, Glenn R.  
Farrell, Charles H.  
Fitzgerald, Wm. L.  
Ford, Frank E.  
Fox, William W.  
Folz, Joseph H.  
Frost, Alfred S.  
Hopkins, George P.  
Howard, Harry C.  
Irish, E. M.  
Jackson, St. Clair.  
Ketchum, Clyde W.  
Kleinstuck, C. H.  
Mason, Lynn B.  
Mills, A. J.  
Osborn, Donald C.  
Schuur, R. Paul.  
Shaberg, Martin J.  
Sharpe, D. B.  
Stanley, Fred G.  
Stewart, Gordon L.  
Stewart, N. H.  
Stearns, Clare H.  
Taylor, Walter R.  
Titus, Lincoln H.  
Titus, Albion B.  
Van Horn, S. H.  
Wattles, Stephen M.  
Wattles, I. N.  
Welmer, George V.  
Weston, Frank S.

#### LAKE CITY.

(Missaukee County.)

Engel, Albert J.  
Miltner, Henry M.

#### L'ANSE.

(Baraga County.)

Brennan, Hubert A.  
O'Connor, Joseph J.

LANSING.

(Ingham County.)

Black, Allan R.  
Bolce, J. Arthur.  
Brown, Wm. C.  
Brown, J. Earle.  
Cahill, Edward.  
Carbaugh, W. J.  
Collingwood, C. B.  
Cummins, Alva M.  
Dodge, Frank L.  
Dunnebacke, Joseph H.  
Eger, Paul G.  
Fellows, Grant.  
Foster, Walter S.  
Foster, Charles W.  
Haight, Charles F.  
Hayden, Charles Howe.  
Kelley, Spencer D.  
Kelley, Patrick H.  
Kelley, Samuel D.  
McArthur, L. B.  
McClellan, John.  
Montgomery, Stanley D.  
Moore, Joseph B.  
Nichols, Charles W.  
Ostrander, Russell C.  
Pepper, Samuel D.  
Person, Seymour H.  
Raudabaugh, Richard.  
Reasoner, James M.  
Retan, Clare, Att'y Gen'l. Office.  
Reynolds, Carl H.  
Rhoads, S. H.  
Seelye, W. S.  
Shields, Edmund C.  
Silsbee, Harry A.  
Steere, J. H.  
Steinkohl, Wm. F.  
Stone, John W.  
Thomas, Harris E.  
Wiest, Howard.

LAPEER.

(Lapeer County.)

Brown, Wm. E.  
Williams, Wm. B.

LAURIM.

(Houghton County.)

O'Brien, P. H.

LUDINGTON.

(Mason County.)

Danaher, M. B.  
Kaiser, A. A.  
Phelan, John.  
Quall, Robert J.

MANISTEE.

(Manistee County.)

Belcher, Charles N.  
Neal, Max E.  
Overpack, Roy M.  
Smith, R. W.

MANISTIQUE.

(Schoolcraft County.)

Hixson, Virgil L.  
Johnson, Gottfried S.

MARCELLUS.

(Cass County.)

Jones, Walter C.

MARQUETTE.

(Marquette County.)

Clark, Harlow A.  
Eldredge, Ralph R.  
Eldredge, A. B.  
Garvin, L. E.  
Hatch, Harvey Burright.  
MacDonald, E. A.  
Miller, A. E.  
Sherwood, M. J.

MARSHALL.

(Calhoun County.)

Mackey, James W.  
Miller, Charles O.  
Porter, Wm. H.  
Robinson, Carl A.  
Windsor, Herbert E.

MENOMINEE.

(Menominee County.)

Doyle, M. J.  
Haggerson, Fred H.  
O'Hara, John J.

MIDDLEVILLE.

(Barry County.)

Jordan, Milton F.

MIDLAND.

(Midland County.)

Hyde, Ralph J.  
Reardon, W. E.  
Stanford, George B.

MONROE.

(Monroe County.)

Gilday, Edward.  
Kolb, Clifton M.

MORENCI.

(Lenawee County.)

Bauman, H. Thane.  
Murphy, Thomas F.

MT. CLEMENS.

(Macomb County.)

Bowers, Varnum J.  
Kelly, William T.  
Miller, Frederick C.  
Nunneley, B. V.

**MT. PLEASANT.**

(Isabella County.)

Dodds, Francis H.  
 Dodds, Peter F.

**MUSKEGON.**

(Muskegon County.)

Anderson, John G.  
 Carpenter, William.  
 Farmer, Edward C.  
 Jackson, Harry W.  
 McLaughlin, J. A.  
 Ross, John Q.  
 Sullivan, James E.  
 Turner, Willard G. Jr.

**NEGAUNEE.**

(Marquette County.)

Bell, Frank A.  
 Edgerton, J. M.

**NEWBERRY.**

(Luce County.)

Fead, Louis H.

**NILES.**

(Berrien County.)

Bacon, N. H.  
 Burns, Wilber N.  
 Hillman, Archer J.  
 White, Charles E.

**NORTHVILLE.**

(Wayne County.)

Cochran, Fred J.  
 Yerkes, C. C.

**NORWAY.**

(Dickinson County.)

Brackett, A. F.  
 Flannigan, R. C.  
 Knight, J. C.  
 Turner, Raymond.

**ONTONAGON.**

(Ontonagon County.)

Jones, John.  
 Walsh, John J.

**OVID.**

(Clinton County.)

Hunter, George G.

**OWOSSO.**

(Shiawassee County.)

Chandler, Albert L.  
 Pardee, George E.  
 Pierpont, Warren.  
 Pulver, Seth Q.  
 Seegmiller, W. A.

**OXFORD.**

(Oakland County.)

Jenkins, Frank E.

**PAW PAW.**

(Van Buren County.)

Burhans, Earl L.  
 Cavanaugh, Thos. J.  
 Free, A. Lynn.  
 Warner, Glenn E.

**PETOSKEY.**

(Emmet County.)

Halstead, B. H.  
 Pailthorp, C. J.

**PIGEON.**

(Huron County.)

Sauer, Alfred H.

**PONTIAC.**

(Oakland County.)

Cambrey, Leman A.  
 Doty, Frank L.  
 Fredenberg, J. A.  
 Heltsch, Robert D.  
 Lynch, James H.  
 McGee, Clinton.  
 Patterson, John H.  
 Rockwell, K. P.  
 Stockwell, Elmer E.  
 Tillson, John A.  
 Webster, Elmer B.

**PORT HURON.**

(St. Clair County.)

Benedict, C. L.  
 Cady, B. D.  
 Carrigan, Don R.  
 Hughes, Isaac S.  
 Jenks, W. L.  
 Kane, Patrick H.  
 Law, Eugene F.  
 Moore, Alex.  
 Phillips, P. H.  
 Schell, F. R.  
 Souter, Robert M.  
 Stewart, Shirley.  
 Walsh, Joseph.  
 Walsh, William R.  
 Wilson, J. Frank.

**RICHMOND.**

(Macomb County.)

David, Carl.

**ROMEO.**

(Macomb County.)

McKay, Henry J.

**ROSCOMMON.**

(Roscommon County.)

Smith, Hiram R.

**ST. IGNACE.**

(Mackinac County.)

Brown, Prentiss M.

ST. JOHNS.

(Clinton County.)

Fehling, Edward W.  
Molnet, E. J.  
Smith, Wm. M.  
Walbridge, H. E.

ST. JOSEPH.

(St. Joseph County.)

Banyon, Willard J.  
Evans, Fremont.  
Stratton, C. W.

SAGINAW.

(Saginaw County.)

Beach, E. L.  
Cook, Robert H.  
Crane, Floyd T.  
Crane, R. L.  
Crane, Wm. E.  
Curry, Robert T.  
Davis, Geo. W.  
Davis, Mark T.  
Grant, George.  
Henry, Guy D.  
Humphrey, George M.  
Kendrick, Raymond R.  
Naegely, Henry E.  
Peter, James B.  
Quinn, Frank L.  
Rockwith, Frank A.  
Smith, Wallis Craig.  
Snow, A. Elwood.  
Vincent, Bird J.  
Weadock, George L.  
Weadock, George W.  
Weadock, Jerome J.  
Weadock, Vincent.  
Willson, Floyd A.

SANDUSKY.

(Sanilac County.)

Gates, Charles F.  
McKenzie, Robert W.  
Simonson, Alex. B.

SAUGATUCK.

(Allegan County.)

Gardner, W. R.

SAULT STE. MARIE.

(Chippewa County.)

Green, Thomas J.  
Handy, Sherman T.  
Hudson, Roberts P.  
Kaltz, B. Frank.  
McDonald, Francis T.  
Shine, John W.  
Sullivan, Frank P.  
Warner, Frank R.  
Wiley, Merlin.

SEBEWAING.

(Huron County.)

Pengra, Otis.

SOUTH HAVEN.

(Van Buren County.)

Chandler, James E.  
Cogshall, F. C.

STANTON.

(Montcalm County.)

Palmer, L. C.

STURGIS.

(St. Joseph County.)

Britton, D. M.

TAWAS CITY.

(Iosco County.)

Flynn, Wm. H.  
Hartling, Nicholas C.  
Snyder, C. H. W.  
Widdis, Albert.

TRAVERSE CITY.

(Grand Traverse County.)

Alway, C. D.  
Connine, Ward B.  
Davis, H. C.  
Duncan, J. O.  
Gilbert, Parm C.  
Patchin, J. W.  
Tweddle, L. J.  
Underwood, M. W.

VASSAR.

(Tuscola County.)

Spears, W. J.

WEST BRANCH.

(Ogemaw County.)

Harris, E. M.

WILLIAMSTON.

(Ingham County.)

King, Clyde V.

WOLVERINE.

(Cheboygan County.)

Barghoorn, C. D.

YPSILANTI.

(Washtenaw County.)

Hatch, W. B.  
Kirk, John P.

OUTSIDE OF MICHIGAN.

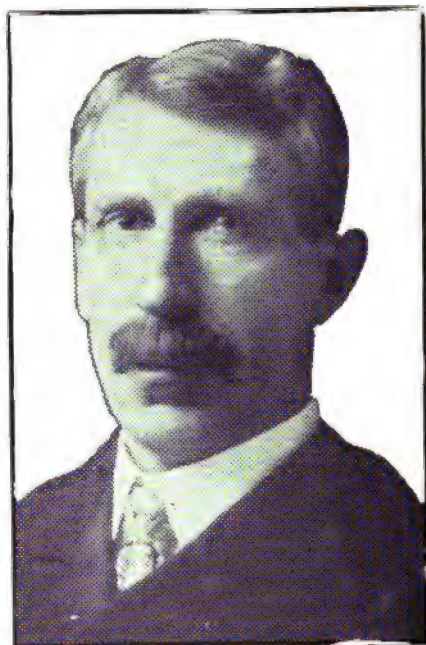
Belden, William P., Rockefeller Bldg.,  
Cleveland, Ohio.  
Moore, George G., 52 Vanderbilt Ave.,  
New York City, N. Y.  
Weadock, John C., Wall St., New  
York City.

## LIST OF DECEASED MEMBERS.

## WITH DATE OF DEATH.

- Adams, Oscar, Cheboygan, (See p. 114, Proceedings of 1903.)  
 Alexander, Chas. T., Detroit.  
 Alexander, Cassius, Grand Ledge, 1918.  
 Atkinson, John, Detroit, Aug. 14, 1902. (See p. 119, Proceedings of 1903.)  
 Atkinson, O'Brien J., Port Huron. (See p. 35, Proceedings of 1902.)  
 Babbitt, J. W., Ypsilanti. (See p. 35, Proceedings of 1902.)  
 Ball, Dan H., Marquette, 1917.  
 Ball, James E., Marquette. (See p. 148, Proceedings of 1914.)  
 Baker, Orlando H., Saginaw. (See p. —, Proceedings of 1912.)  
 Bancker, Enoch, Jackson, June 29, 1917.  
 Bean, Seth, Adrian. (See pp. 28 and 114, Proceedings of 1903.)  
 Beaver, Theo. G., Niles, Sept. 1, 1906. (See p. 68, Proceedings of 1910.)  
 Black, Hon. C. P., Lansing, Oct. 13, 1916. (Proceedings of 1917.)  
 Blair, Charles A., Lansing. (See p. —, Proceedings of 1912.)  
 Brennan, Michael, Detroit, Dec. 11, 1905. (See p. 81, Proceedings of 1906.)  
 Brooks, John M., Saginaw, March 26, 1904. (See p. 76, Proceedings of 1904.)  
 Brooks, Melville D., Saginaw. (See p. 149, Proceedings of 1914.)  
 Brown, Benjamin J., Menominee, Jan. 9, 1905. (See p. 69, Proceedings of 1905.)  
 Brown, Henry B., Washington, D. C. (See Report of Historical Committee, 1913.)  
 Browne, Thos. W., Kalamazoo, July 8, 1910.  
 Bundy, McGeorge, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Butler, Jefferson, Detroit. (See p. —, Proceedings of 1914.)  
 Canfield, Hon. F. H., Detroit, March 9, 1916.  
 Carpenter, Henry B., Lansing, Aug. 5, 1905. (See p. 89, Proceedings of 1906.)  
 Chambers, F. H., Detroit. (See p. 35, Proceedings of 1902.)  
 Chamberlain, Robert M., Detroit, Aug. 7, 1917.  
 Chadbourne, T. L., Houghton, April 18, 1911. (See Report of Historical Committee, 1911.)  
 Champlin, John W., Grand Rapids, July 24, 1901. (See p. 119, Proceedings of 1903.)  
 Chatterton, Mason D., Lansing, Oct. 27, 1903. (See p. 73, Proceedings of 1904.)  
 Cheever, Noah Wood, Ann Arbor, July 20, 1905. (See p. 87, Proceedings of 1906.)  
 Clark, Frederick O., Marquette. (See p. 85, Proceedings of 1906.)  
 Clute, Lemuel, Ionia. (See p. 35, Proceedings of 1902.)  
 Cobb, George P., Bay City. (See Report of Historical Committee, 1913.)  
 Collins, Hon. Chester L., 1916. (See Proceedings of 1916.)  
 Conley, Edwin F., Detroit, April 20, 1902. (See p. 115, Proceedings of 1903.)  
 Cooley, Edgar A., Bay City. (See p. 149, Proceedings of 1914.)  
 Coolidge, O. W., Niles, 1918.  
 Constantine, S. M., Three Rivers, September, 1908.  
 Crocker, Thomas M., Mt. Clemens. (See p. 114, Proceedings of 1903.)  
 Cruickshank, A. D., Charlevoix. (See p. 114, Proceedings of 1903.)  
 Cummisly, John, Escanaba. (See Report Historical Committee, 1913.)  
 Cutcheon, S. M., Detroit, April 18, 1900. (See p. 121, Proceedings of 1903.)  
 Devereaux, James P., Saginaw, 1918.  
 Dickinson, Julian, Detroit, Jan. 11, 1916. (See Proceedings of 1916.)  
 Doelling, John C., St. Johns, Feb. 28, 1908. (See p. 68, Proceedings of 1910.)  
 Doran, Peter, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Drury, Horton H., Grand Rapids, March 18, 1909. (See p. 69, Proceedings of 1910.)  
 Duffield, Henry M., Detroit. (See p. —, Proceedings of 1912.)  
 Durand, Geo. H., Flint. (See p. 114, Proceedings of 1903.)  
 Durand, L. T., Saginaw, Aug. 7, 1917.  
 Eddy, L. P., Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Eldredge, J. B., Mt. Clemens. (See p. 35, Proceedings of 1902.)  
 Evans, W. T., Pentwater. (See p. 28, Proceedings of 1903.)  
 Felker, Henry J., Grand Rapids. (See p. 28, Proceedings of 1903.)  
 Fedewa, John H., St. Johns, Jan 27, 1901. (See p. 121, Proceedings of 1903.)  
 Fletcher, Hiram A., Grand Rapids, Aug. 15, 1899. (See p. 120, Proceedings of 1903.)

- Fox, Wm. D., Detroit, May 1, 1911. (See Report of Historical Committee of 1911.)
- Fowler, George B., Detroit, November 23, 1916.
- Fowler, Frank L., Manistee (Chicago). (See p. 149, Proceedings of 1914.)
- Fraser, Robert E., Detroit, May 9, 1908. (See p. 69, Proceedings of 1910.)
- Fuller, C. C., Big Rapids, Dec. 23, 1906. (See p. 69, Proceedings of 1910.)
- Fuller, Wm. D., Grand Rapids, March 20, 1908. (See p. 80, Proceedings of 1908.)
- Fyfe, L. C., St. Joseph, Nov. 15, 1909. (See p. 69, Proceedings of 1910.)
- Gage, Chauncey H., Saginaw, April 8, 1909. (See p. 70, Proceedings of 1910.)
- Gates, Hon. Jasper C., Detroit, January 8, 1916.
- Gillett, Hon. H. M., Bay City, April 16, 1917. (Proceedings, 1917.)
- Golden, C. A., Monroe.
- Gordon, W. D., Midland.
- Goss, Dwight, Grand Rapids, March 20, 1909. (See p. 70, Proceedings of 1910.)
- Gott, Edward A., Detroit, May 9, 1904. (See p. 78, Proceedings of 1904.)
- Graves, Benj. F., Detroit, March 3, 1906. (See p. 77, Proceedings of 1906.)
- Graves, Frank P., St. Joseph, July 8, 1915. (Proceedings, 1917.)
- Griffin, Levi Thos., Detroit, March 17, 1906. (See p. 83, Proceedings of 1906.)
- Gundry, Clare M., Flint, April, 1917.
- Haggerty, Wm. H., Grand Rapids, March 31, 1904. (See p. 77, Proceedings of 1904.)
- Hall, Frank M., Hillsdale, Feb. 7, 1918.
- Hall, Devere, Bay City. (See p. 150, Proceedings of 1914.)
- Harmon, Henry A., Detroit. (See p. —, Proceedings of 1912.)
- Harris, John M., Saginaw, Feb. 25, 1906. (See p. 88, Proceedings of 1906.)
- Hawley, J. G., Detroit, Aug. 17, 1900. (See p. 120, Proceedings of 1903.)
- Hayden, George, Ishpeming. (See p. 114, Proceedings of 1903.)
- Hender, Joseph B., Eaton Rapids, 1918.
- Hewitt, Adolphus, Jackson. (See p. —, Proceedings of 1912.)
- Higgins, S. G., Saginaw. (See p. —, Proceedings of 1903.)
- Holmes, Glenn W., Grand Rapids. (See p. 150, Proceedings of 1914.)
- Hooker, Frank A., Lansing. (See p. —, Proceedings of 1912.)
- Hopkins, George H., Detroit, March 6, 1906. (See p. 84, Proceedings of 1906.)
- Hopkins, Joel C., Battle Creek, April 29, 1907. (See p. 80, Proceedings of 1908.)
- Howard, Wm. G., Kalamazoo, Aug. 8, 1908. (See p. 81, Proceedings of 1908.)
- Hoyt, Burney, Grand Rapids. (See p. 35, Proceedings of 1902.)
- Hoyt, Iliram J., Muskegon, May 17, 1909. (See p. 70, Proceedings of 1910.)
- Hulbert, Stephen S., Battle Creek, May 15, 1904. (See p. 78, Proceedings of 1904.)
- Humphrey, Watts S., Saginaw, 1916. (See Proceedings of 1916.)
- Hunter, F. W., Grand Rapids. (See p. 35, Proceedings of 1902.)
- Huston, B. W., Vassar. (See p. 35, Proceedings of 1902.)
- Jennings, Ira C. (See Report of Historical Committee, 1915.)
- Jacokes, James A., Pontiac. (See p. 82, Proceedings of 1908.)
- Johnson, Andrew W., Grand Rapids. (See p. 152, Proceedings of 1914.)
- Kane, R. W., Charlevoix, 1918.
- Kille, Ronald, Detroit. (See p. 151, Proceedings of 1914.)
- Knappen, Frank E., Kalamazoo. (See Report Historical Committee, 1913.)
- Kingsley, Willard, Grand Rapids. (See Report Historical Committee, 1913.)
- Knight, Seth M., Mt. Clemens, July 11, 1910. (See p. 70, Proceedings of 1910.)
- Knowlton, Prof. Jerome C., Ann Arbor, Dec., 1916. (Proceedings, 1917.)
- Landon, Geo. M., Monroe. (See Report Historical Committee, 1913.)
- Lee, Jay P., Lansing. (See p. 35, Proceedings of 1902.)
- Lillibridge, W. M., Detroit, Oct. 2, 1904. (See p. 67, Proceedings of 1905.)
- Lockton, Andrew W., Battle Creek, April 5, 1904. (See p. 77, Proceedings of 1904.)
- Long, Chas. D., Lansing. (See p. 35, Proceedings of 1902.)
- Lovell, Henry R., Flint. (See p. 68, Proceedings of 1905.)
- Lowell, Dwight N., Romeo. (See p. 83, Proceedings of 1908.)
- Maybury, Wm. C., Detroit, May 6, 1909. (See p. 70, Proceedings of 1910.)
- Moore, William A., Detroit, Sept. 28, 1900. (See p. 84, Proceedings of 1908.)
- McAlvay, A. V., Lansing, July 10, 1915. (See Proceedings of 1916.)
- McCarthy, John J., Standish. (See Report Historical Committee, 1913.)
- McGrath, J. W., Detroit, Dec. 9, 1905. (See p. 78, Proceedings of 1906.)
- McKnight, W. F., Grand Rapids, May 19, 1918.
- McMath, J. W., Bay City. (See p. 35, Proceedings of 1902.)
- Maynard, Horace S., Charlotte, Oct. 17, 1917.
- Mead, F. D., Escanaba. (See p. 151, Proceedings of 1914.)
- Meddaugh, Elijah W., Detroit, December 20, 1903. (See p. 74, Proceedings of 1904.)
- Metzger, Henry F., Sault Ste. Marie, Jan. 9, 1905. (See p. 68, Proceedings of 1905.)
- Nichols, M. A., Grand Rapids. (See p. —, Proceedings of 1912.)



GEORGE CAPPERTON  
OF GRAND RAPIDS  
President, 1918-1919

**PROCEEDINGS**

**OF THE**

**TWENTY-NINTH ANNUAL MEETING**

**OF**

**THE MICHIGAN STATE BAR  
ASSOCIATION**

**WITH**

**REPORTS OF COMMITTEES  
LIST OF OFFICERS  
MEMBERS, ETC.**

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**1919**

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**ANN ARBOR, MICHIGAN**  
**June 20 and 21, 1919**

L26135

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## **PROCEEDINGS**



**PROCEEDINGS OF THE TWENTY-NINTH  
ANNUAL MEETING**

**OF**

**THE MICHIGAN STATE BAR ASSOCIATION**

**ANN ARBOR, MICHIGAN**

**Friday and Saturday, June 20th and 21st, 1919.**

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**FRIDAY MORNING.**

**Room C, University Law Building, Ann Arbor, June 20,  
1919.**

**Meeting called to order at 10:16 a. m., by President Clapperton.**

**PRESIDENT CLAPPERTON:** Gentlemen, come to order. The 29th annual meeting of the State Bar Association is in session.

**The Chair recognizes Mr. M. J. Cavanaugh of Ann Arbor, President of Washtenaw County Bar Association.**

**Mr. Cavanaugh's address of welcome.**

## ADDRESS OF WELCOME.

Ann Arbor graciously welcomes you to the city. The Wash-tenaw Bar Association takes pride in having every member of the State Bar Association its guest. It will do its best to make your stay here pleasant and agreeable. It seems to me that Ann Arbor is peculiarly a fitting place for the annual meeting of the State Bar Association. It is here where a great majority of the lawyers of the State received their fundamental instruction in the legal profession, and the members of the Association will therefore, make an extra effort to visit their Alma Mater. The members of the State Bar Association who attended the University and graduated from the Law Department cherish the idea of returning to the Department for a day or two and discuss with their former instructors, on an equality, problems and legal propositions with which he has come in contact from actual experience, so, therefore, it is doubly pleasant for you here in Ann Arbor.

Our Law Department is one of the best, if not the best, in the country. It has raised the requirements for entrance which will naturally raise the literary attainments of the future lawyer who graduates from the Institution. All of you are familiar with the names of men who made the Law Department, and, incidentally, Ann Arbor, famous throughout the country. When we speak of the Law Department, the names of Cooley, and Campbell, and Walker and Wells immediately come to mind. It was these men, more than any others, in the early days of the Institution that made it a success.

In saying a word of welcome to you here to-day, I hope you will not consider it out of place if I give it, as my opinion, that it is the duty of the State Bar Association, if it is to serve any good purpose, to use its influence to prevent unnecessary litigation. The members of the Association can win signal honors by encouraging lawyers and laymen to co-operate in

the preparation of the best possible legal instruments, by making the fact known that they are encouraging the settlement of disputes out of court as far as practicable; by urging the Bar and business men generally to co-operate in each locality for the prevention of unnecessary litigation. In this way the lawyer will become the friend and advisor of trade and industry; he will stand then in the community as the leader of thought in business as well as in his profession. No man can expect to succeed in the legal profession who encourages petty litigation. The lawyer must have the confidence of the community in which he practices his profession if he is to play any important part in the development of his community. He must never permit an idea of his personal convenience or profit to influence him in obstructing requisite reforms. Because "he may have learned to practice under one scheme of procedure he must not be unwilling to adjust himself to the demands of the new generation." The days of the retainer may come again and the contingent fee and the negligent specialist may largely disappear, but it is clearly to the interest of the legal profession in the last analysis to minimize the time between the summons and the judgment.

I think another important function for the Association to perform is to initiate legislation on subjects that are constantly coming before the Legislature at its biennial sessions. Our Legislature has passed so many statutes that the active, painstaking lawyer can hardly find time to read them and when he does read them, it is almost impossible to understand what is meant. I think it would be much better for the State if the Legislature did not meet more than once in every six or eight years. The idea of constantly making new laws for the administration of justice that does not require legislation is nonsensical and should not be permitted. I am well aware, however, that many good laws have been suggested by this Association and that many of them have been enacted. Should we not use our influence to its utmost in shaping the Legislation, not only in the State, but also in the Nation? The possibilities of the lawyers in shaping legislation are great.

It, therefore, behooves every member of the Bar to see to it that his profession exerts its influence with the legislative bodies so that just and humane laws may be put upon the statute books; laws that will reflect the brains and ability of the best men of the country.

I conclude with these few suggestions and bid you a hearty welcome to the city in behalf of our Association as well as in behalf of the City.

**PRESIDENT:** We are always glad to hear anything in favor of the great University of Michigan. We also appreciate fully his admonitions and suggestions in regard to lawyers and the law and we are very glad to receive the welcome of this local association with such gracious and happy words. I assure Mr. Cavanaugh and this association that we appreciate its work. We are going to have a good time every minute we are here and shall return to our homes carrying happy memories of these days.

In compliance with the regular custom the first number on the program is the President's address. I would at this time recognize the spirit that animates the members of this Association and which I pray may brood over this 29th meeting of the Association, I mean the spirit of vigilant Americanism. The year since we last met has been the most momentous in our history in that there has come the termination of the war which was the greatest catastrophe in the world, and which will mark the beginning and development of another and greater era.

(See Appendix for President's Address.)

**PRESIDENT:** We will next listen to the report of the secretary.

(See Appendix for Secretary's Report.)

**PRESIDENT:** The report is before you, what is your pleasure?

**MR. BATES:** I move the report be accepted and placed on file.

**PRESIDENT:** The report of the Treasurer will be read by Mr. Brown.

(See Appendix for Treasurer's Report.)

**MR. BROWN:** I move the report be referred to the Auditing Committee.

Motion was carried and the report was so referred.

**PRESIDENT:** I will appoint as Auditing Committee: Walter S. Foster of Lansing, Wm. J. Landman of Grand Rapids and V. E. Van Ameringen of Ann Arbor.

I am going to appoint all the officers of the Association and in addition Mr. Cavanaugh, Mr. Hamilton and Mr. Davis a committee whose duty will be to see that every member of the Association present knows every other member and that every one is introduced and has a good time generally. This is not a perfunctory committee, it is a committee of action.

The next speaker is a native of Ann Arbor and spent his early years here. His father I understand was one of the early settlers of this region and contributed a very large part of the land upon which the great University stands to-day. I am pleased to introduce Hon. Fred A. Maynard of Grand Rapids, who will address you on "Five to Four Decisions of the United States Supreme Court."

**MR. MAYNARD:** I feel that I am going to violate in advance and deliberately the advice of my grandmother who spent all her life in this city. Brother Mills, a pioneer in this city, was gifted in prayer. My grandmother had been bothered during her active years, very much by tedious people, she was then ninety years of age, she was in a sick room, Mr. Mills was there and said to my mother "Mary, would mother enjoy a season of prayer?" Mother leaned over to grandmother and said "Mother, brother Mills wants to know if you would enjoy

a season of prayer." She looked up and said, "If he can pray short and right to the point I would like to hear him." I have tried to follow that suggestion but rather failed, and subject to the rising of some one and his moving to suspend the reading I am going to inflict this address upon you. I have spent a good deal of time upon it.

(See Appendix for Mr. Maynard's Address.)

**PRESIDENT:** This completes the morning program. I announce that the local bar association of this county invites the members of the State Bar Association after the afternoon session for a ride about the city and its environs. Arrangements have been made for a speaking and miscellaneous meeting to be held in Hill Auditorium this evening, and tomorrow at 12:30 o'clock a banquet will close our meeting. The latter will be held at the Michigan Union.

Tomorrow Judge Page, President of the American Bar Association will present and deliver an address. I am sure every member will be glad to meet Judge Page. The meeting tonight will be addressed by President Hutchins and Ex-Gov. McCall of Mass., who has been one of the distinguished statesmen serving in Congress.

We will now adjourn until two o'clock this afternoon.

#### AFTERNOON SESSION.

**PRESIDENT:** Please come to order. I will recognize Mr. Walters of Detroit who wishes to make some announcements.

**MR. WALTERS:** Gentlemen of the Michigan State Bar Association, I have several invitations to present for your consideration in respect to the place for your next annual meeting. The invitations speak for themselves and I think I can-

not do better than read them. After I get through reading them it is my opinion, and I think it will be yours, that everybody in Detroit would like to have the next annual meeting of the Michigan State Bar Association held in that city. I will read the best one first which is from the Detroit Bar Association. The next one is from the presiding judge of the Judicial Bench of Wayne County. The next is from the Board of Commerce and other civil organizations of Detroit, and the next one is signed by Mayor Couzens and the last is from the Convention Board of Detroit.

The invitations after being read were referred to the Executive Committee for future consideration and action.

I now call for the report of the "Committee on Legislation and Law Reform." In the absence of Chairman Potter of Hastings it will be read by Mr. Walter S. Foster of Lansing.

**THE PRESIDENT:** The local association has arranged to administer a little punch to the people here and after the report of this committee it will be acceptable. I am sure it is perfectly safe.

**MR. FOSTER:** It is pleasant to know you are to have some stimulant which you may require after this report which has just been handed to me, together with a personal letter from the American Education Society of Chicago, touching on the matter of Civil Procedure which the President has suggested that I read.

(See Appendix for Report of Committee on Legislation and Law Reform.)

**G. W. BATES:** I move the report be accepted and placed on file.

**T. A. E. WEADOCK:** I support the motion to place the report on file but would amend by moving that the recommendations of the report be concurred in.

**MR. BATES:** I accept the amendment.

The motion was carried unanimously.

**PRESIDENT:** The matter therein is referred to the committee mentioned for such consideration as is required in the future.

We will now accept the invitation and be led to the punch bowl by our distinguished friend Mr. Hamilton, not because he is the driest man in the crowd but for other apparent considerations.

Refreshments served.

**PRESIDENT:** Every member of the bar present will consider it a privilege to listen to our next speaker formerly of Michigan now of New York.

**MR. STEVENS:** Mr. President, Ladies and Gentlemen:—acknowledge the honor assigned to me by the committee in charge, in asking me to address you here though I doubt their discretion in so doing. I had difficulty in choosing my subject. You are interested in all public subjects and I need not restrict my remarks to legal subjects. I thought it might not be out of place if to old friends I state some facts and views concerning one of the most important subjects now before the country. I refer to the legislation which should be enacted by Congress upon the subject of railroads.

(See Appendix for Mr. Stevens' Paper.)

**PRESIDENT:** Assuming that we lawyers are men of just ordinary intelligence, responsibility and influence among men I feel that Mr. Stevens in his splendid address has given us food for reflection and thought that ought to be placed in the hands of every lawyer in the country, indeed it ought to be distributed publicly.

**MR. PRESIDENT:** I will now appoint as Committee on Nominations Mr. Cavanaugh of Ann Arbor, Mr. Hamilton of Battle Creek and Mr. Landman of Grand Rapids.

Among the important questions before the people of Michigan at this time is that of the existence and management of Public Utilities. All that I am going to say about the person who is going to address you upon that subject is that when the committee determined it would ask for an address upon that subject it at once came to the unanimous conclusion to ask Mr. Ryall to present a paper upon that subject.

**MR. RYALL:** Mr. President:—I cannot proceed with the discussion without pausing to express the pleasure I have in meeting with the members of the Michigan Bar, not only in being asked to take your time upon the very important subject, that is under the circumstances of a personal nature which I cannot help mentioning, because it was in this very room I sat at the feet of the Gamaliels and listened to these great men who have represented this great University and exemplified the underlying principles of law which they have laid as the basis of government and justice. It is only 17 years since I left this institution and at that time the subject of Public Utilities had no place in it. I have since then gathered a number of volumes but in the 25 volumes of reports there is none devoted exclusively to this subject, still running thru them all you will find these same underlying fundamental principles which always have been a part of the common law; and it is because I believe it is in and thru those principles that this problem can be worked out I want to offer you this discussion. I have no patent idea or fancy which will automatically cure all these things. I conclude, and my judgment is borne out by what I have heard here to-day concerning fundamentals, and I believe if we can get at the fundamental doctrine we will have no serious difficulty in finding a fundamental cure. I believe that the solution of this railroad problem will come about thru a realization on the part of the in-

telligent public of the necessity and importance of these problems.

(See Appendix for Mr. Ryall's Paper.)

PRESIDENT: The subject matter of Mr. Ryall's address is open for discussion. It is expected that certain parties who have been interested in the consideration of the Public Utilities bill would be present to take part in the discussion. They have not arrived, but I observe before me a number who are able to take the place of those absent members. The time which will be devoted to this will not exceed half an hour because we are expected to take a ride about that time. I have been watching the vice president during this reading and he seemed to me not only to be a good listener but that he might have something to say. I suggest he open the discussion. I call upon Mr. Carney.

MR. CARNEY: I have been very much interested in this matter. I have a note of a general character upon this subject. there is just a tone of pessimism that seems to run thru both of these splendid papers which I don't believe was really intended. I have been an optimist all my life. Concerning the ability of the American people to take care of any important situation when they really understand it I have always been optimistic. Now this is one of the most important economic questions that has been presented in this country. But we must weigh all these facts under the light that we have and under the conditions that obtain and must not forget that this is a reconstruction period and why these things are all demanding a tremendous sum of money is easily explained.

We may, as Mr. Ryall said, never again see the purchasing power of money return to the pre-war condition; still, I can remember when I was a boy my father complained all along that when he bought his farm he let the fellow who sold to him reserve the wheat crop that brought \$3.50 a bushel, and father never got over it. Day before yesterday I noticed some teams working on the road. I asked what the boys were getting. It

was \$8 a day with a team. I can remember when \$3 was a big price. We must remember that a few short months ago nobody believed this country could ever be interested in the European war, we were a peace loving people, we decried war, and it was apparent that nothing except some most terrific condition could induce our people to enter into a struggle of that kind, and we were told that our boys could not be made into good soldiers, and yet when the American people really understood what was necessary to preserve the best interests of their government they found that the boys from our Sunday Schools could go over seas 3,000 miles and fight like veterans. I am talking about the ability of the American people to handle any situation when they really understand it. You cannot charge the situation entirely to the public. There was a time when it was said corporations did not have a soul. The people are trying to make them believe they do have. There was a time when the public utilities made a large number of the fellows on the farms and in the factories pretty nearly believe they were controlling all the legislation in the country in their own interest. Undoubtedly we are reaping the fruits of some of the errors of those public utilities corporations. Those questions up to the present time have been largely left to the activities of those in the control of capital. When Americans understand that for the good of their country the duty rests upon them to treat those questions not only as they have in the past in the light of the history of the past but also as they find the situation to-day they will do so. Undoubtedly there will be many failures before they thoroughly understand, but when they do I am thoroughly satisfied they will handle this matter the same as they have others.

**PRESIDENT:** The little optimistic note is always encouraging. I am going to call Prof. Goddard.

**PROF. GODDARD:** I wish Mr. Stevens might have conducted an inquiry on this matter, and that he might tell us how many people do realize the importance to all the people of this

country of the questions of public utilities in general these problems in particular. I am prepared to agree with the last speaker that when the American people are thoroughly informed they may be depended upon to rise to the necessities of the situation, but I venture to assert that on this particular subject the American people are about as well misinformed as on almost any subject of large interest that can be mentioned, and for various reasons. There are at least two ways of settling problems, one by means of war and one by methods of peace. In the past the public utilities problem has been on a war basis. Not only has there been a hostility of interests between the public and the utility in all their attitude towards each other, but in many cases there has been hostility for political reasons until feeling has been very bitter, reason has gone out and prejudice has taken its place, and the matter has not been looked at on either side in its true light, when it is war will give way to peaceful negotiation. These papers this afternoon I agree with in general, but we need to remember that under present conditions the owner or operator of a public utility naturally take his own point of view and sees how unreasonably the utilities are dealt with in many cases, in view of the rising cost of operation at the present time.

But this war goes back to the time when cost of operation was cheap and the people rightly complained of rates, when people were supplied not by public utilities but by certain men who used public utilities for private plunder, and did the utilities and the public at the same time. Those conditions bred a very unfortunate distrust in the public. I remember not many years ago a great cry was put up by the railroad companies, they urged higher rates by widely advertising how many thousand miles of railroad were in the hands of receivers. I am inclined to think they deserved higher rates then. But I know that nearly all the receiverships referred to were due not to low rates but primarily to criminal conduct by manipulators of railway stock that should have landed the guilty ones in state's prison, instead of putting upon the public the burden of the mess they had made of managing

the public utilities. It is certainly one of the hopeful signs of the times that in recent years there has been less of that criminal wrecking and more effort on the part of public utilities officials to realize that their interest lies in rendering service that shall satisfy the public and secure willingness on part of the public to pay a reasonable price for the same. I believe the problem is in part at least psychological. A right attitude by both the public and the utilities has an important influence upon any right solution of these questions. To my mind the great thing for any satisfactory solution is the realization upon the part of the public and the public utilities there can never be any satisfactory solution for either party until both see that fundamentally their interests are one. The public will never be rightly served until the public utility is rightly treated, and the public utility will never be rightly treated so long as the public is not rightly served.

That leads to one more suggestion; that much of the conflict in these matters of public utilities, outside the railroads, has been in matters of local concern, as here in Ann Arbor we want gas. If I wish to buy a farm it is a private matter between me and the seller. So in arranging about gas supply it is urged that the state ought not to interfere, but the city ought to be left to make its own terms with the company. Part of this feeling is left over from the old "public be damned" days, days when public utility officials, if not unscrupulous were nevertheless irritating to the public. But the result of trying to settle these things locally is, as far as I have been able to observe, that in many cases they are never settled at all. Such a contest with a public utility is too convenient a football for politicians, as in Detroit. And even if it is not a political football, fundamentally the public utility problem is not like any other contract problem, and when we deal with it as if it were the same, and subject to the same control as others, we are getting away from fundamental principles. If you go into ordinary business you lose or make, and the city of Ann Arbor cannot say how much you shall make and will not help you if you lose. But that is not so in the case of

public utilities. We can say within certain limits what public utilities shall be allowed to earn, and that makes the community try to keep the cost down to the lowest figure regardless of anything else except the size of the figure, regardless of whether the utility can pay its way or will have to go into the hands of a receiver. It is a politician of some courage who can stand up in his own community and insist that rates shall be raised if necessary to have good service. I think our own community in the case of gas rates has been able to do that, but with some reluctance, and I have not noticed it much in other places.

It would seem that inherently it will usually be impossible to get satisfactory agreements as to rates by negotiation between the city and the utility, and that has been one reason why there has been this State Commission. The State of Michigan is anxious, or was a month ago, judging from the personnel of the commission, to do right. Will the utilities do as much? It has been almost as hard for the public utilities to keep hands off and not try to influence appointments to this commission as in the past. The first state commission appointed did a great piece of work. But it must be admitted that as the years went by commissions were more and more taking the point of view urged by the utilities, and they have been increasingly unpopular. We must get to the psychological situation where the public and the utilities shall recognize that their best interests are one. Then we may have a fair rate for a good service. I think if we of the bar can do our part, and others can do their part, towards securing proper psychological feeling and atmosphere, a mutual fairmindedness, there may be a right settlement, but as long as we continue in the condition we are and have been there is little prospect of it.

**PRESIDENT:** It occurs to me Mr. Boudeman might have some thoughts in mind worth while.

**MR. BOUDEMAN:** Mr. President and Brethren of the Bar:—

Any discussion of this matter must, necessarily, be extemporaneous in its character. Two papers, running somewhat parallel to each other, have been very fine indeed.

Mr. Stevens says that under government management the utilities of which the government has had charge have fallen far behind. The public utility is called such because it is quasi-public and because it is supposed that the association is serving the public in a more efficient and better way than does the concern which manufactures automobiles or some other kind of product and sells its product to the general public, and therefore public utilities are put under a ban which the ordinary manufacturer is not under and which consists in the fixing of the price of the product and what shall be realized from the carrying on of the business of that public utility. I have always contended that whether it is a city, or a state, or the general government, which takes charge or supervision of a public utility company and undertakes to regulate it and fix the rates which it may charge for the work which it does, or the commodity which it furnishes, it devolves upon that municipality assuming such control, to fix such a rate or sum to be paid for the service or commodity as will be sufficient to pay the expenses of operating the utility plant, the cost of depreciation and leave a reasonable surplus for the stockholders. I cannot view the subject in any other way. I do not suppose that I shall live long enough to be convinced that a state, the general government or a smaller municipality which fixes a rate to be paid to a public service company for its service or product should make such rate less than would assure a return sufficient to pay all expenses, depreciation and a fair return to the investors who put their money into the business. Anything less than this could not, in my judgment, be justified upon the principles applicable to good business judgment and common honesty.

Suppose the result of the control by the government of the railroads should be extended and be made to apply to the private owners when the roads are turned back to them, within a short time, what is going to happen? Suppose we find the

conditions exists in other kinds of public service corporations the same as railroads, that is, that these concerns keep running behind, such companies I mean as gas companies, public heating companies, electric lighting plants, telephone companies, street railway companies and the like, what will be the result of the whole matter? There can be but one end to all of them and that is bankruptcy. No one can lose money all the time and succeed in any business. I once heard the story of a grocer who was selling eggs, among other things, and a customer came in and asked the grocer at what price he was selling his eggs and the grocer said twelve cents. The customer then asked the grocer what he was paying for eggs and the grocer said a shilling. The inquirer then said he did not see how the grocer could make any money buying eggs at a shilling and selling them for twelve cents and the grocer said he could not do it if he did not do a big business in eggs. The railroads, whether under government operation or under private control, which is paying out more than it gets in for the service which it renders, will be in the same category as the egg merchant and they will certainly, if they keep going along in the same way as above, end in the same place and that place will be called "Failure." When these public utility companies have been crowded out of existence because they are no longer allowed to receive a compensation which will permit them to live, who is going to rise up to take their places? If a community or a people are not willing to pay sufficient for what a public service corporation furnishes them, so that the business can pay out and not fall behind, then how could they expect, when they have passed one set of men out of business in this way, that they will find other men who will be foolish enough to rise up and drop their money in to the same hole through which the first set disappeared.

Now this is a matter of vital importance to the citizen who wishes the enjoyment of what modern civilization, enterprise and industry have brought to him.

If you do not pay a gas company in your city a price for

its product which will enable that company to operate, then it is going to quit. If you do not pay the railroad company, the street car company and the telephone company enough so they can meet their expenses and keep up their equipment, you cannot expect them to give the best service or keep their rolling stock and properties in the safest condition for use or travel. If a railroad company loses \$10,000.00 a day in operating its road and keeping it up, the day will come when the mortgage on it will be foreclosed and the property sold out and who is going to take the road bed and the depreciated junk and start out anew in a community that does not propose to pay a proper rate for this kind of service.

This is worth thinking about and we are set to thinking about it when we are brought face to face with the proposition as we have been through the paper which has been presented by Mr. Stevens.

We have had agitated for years back the subject of government ownership of railroads. I have never seen my way clear to believe in it, but I do not want to discuss that question here. It would seem from the showing which our government has made in the operation of railroads, and which has been so fully shown by the able paper of Mr. Stevens, that not much better argument could be urged against government ownership of railroads than by stating the results of what the government has tried to do.

This whole question of what to do with the railroads and other public service companies is of great importance and not so easily handled as a person might in the first instance suppose was the case. It is going to need the exercise of good common sense, as well as courage, to settle these problems, and their just solution is going to depend largely on the attitude of the people who wish to use these great public conveniences. Any action on the part of the patrons of railroads and other concerns which serve the public, which shall be of such a character as will cripple them, will surely reflect upon those who bring about unsatisfactory results. The holders of stock in public utility companies are numbered by

the thousands and the aggregate value of their holdings runs into the millions. Any position which depreciates the value of these holdings and places them in the non-productive class, does an injustice, not alone to men of large means, but to thousands who have their little savings in the stock of these concerns, placed there in good faith and with a hope of obtaining a reasonable income from their investment.

Various schemes and plans have been, from time to time, submitted to regulate these matters.

At the last session of the legislature of this state there was presented, and its adoption urged, an act to be passed submitting to the vote of the people of the state a proposed constitutional amendment which provided, in substance, that the municipality in which any public utility was operating should be the sole judge of what rates would be paid for the service or commodity furnished by such company. If this had been submitted and voted for by the proper number of electors, the whole question of rates would have rested with the people of each city, village or county of the state so far as they would exist in each municipality. The courts would not have had the right to say anything upon the subject or decide what was a fair rate to be charged. The situation would have been the same, substantially, as if one party to a contract was allowed to dictate what should be the terms of the agreement—the same as if a defendant was obliged to try his case before the plaintiff as judge or jury. This proposition never passed out of the hands of the committee to whom it was referred and instead thereof a law was passed establishing a Michigan Public Utilities Commission which has charge of determining the question of rates and changes in rates when the fact in each case require it.

Opposed to the law establishing such Commission was found the same group of citizens who were supporting the constitutional amendment proposition. The Governor of the state appointed honest and capable men on this Commission and they will have occasion, possibly many times, to determine questions arising between municipalities and public service

companies, and they are fully capable of doing it and everyone ought, by this time, to be satisfied that whenever difference of opinion exists between the people of a municipality and corporation of the character mentioned a disinterested, intelligent and efficient set of men should settle the question.

So respecting the question between railroad companies and the general public, they should be settled by some board or commission, or by some branch or department of the government, which can hear testimony of the disagreeing parties and decide the questions arising between them.

When the railways of this nation are turned back to their owners, as it is expected they soon will be, it should be through or by some regulation as to rates which will not spell failure to them. The experience of the government in operating railroads with the heavy loss which has been suffered, should be conclusive proof that some fair regulation of rates should be provided for, or some body selected to properly fix them in a way that will do justice to all concerned. The things set forth in this valuable paper of Mr. Stevens not only should set us thinking upon this important subject but should materially aid us in our conclusions as to what is best to do in the matter. I wish every man and every woman in the country could read it, and then form an honest judgment as to what their duty is on this important subject. No greater mistake can be made in a business way, then to place unjust burdens on these associations which do so much in the way of bringing to the people the comforts of civil life.

MR. WEADOCK: (T. A. E.) I am in sympathy with these men who have spoken. We have too many railroads. For instance, between Saginaw and Detroit we have three steam railroads and an electric. We do not get good service with any of them. What was the initial trouble. Now, the trouble is that people are not disposed to deal fairly with the public utilities. They want a rate the public utility cannot accept and live. Then it is but another step to municipal ownership, and that means that the entire community shall be taxed for the people who

ride. This matter ought to be managed from both stand-points in a business way. I have always been opposed to governmental ownership of railroads. If you add the rate that must be paid for ownership to the cost of running see where you would be. I think this matter must be managed upon the theory that there shall be a fair, reasonable income from their operation and a regulation which shall establish what ought to be fair to both sides.

MR. RYALL: I want to correct a misapprehension. I don't want to have this bar think I am opposed to commissions. I tried to get the commission. In the long run and fundamentally these commissions are only a half cure, they are not radical in their results. I have spent in the last two years six or nine months on these rate cases thru the central west before commissions. I have profound admiration for them, but I am impressed that they have not reached a full solution, they are a good approach to carry us there.

MR. DAVIS: The matter disclosed in regard to rates shows that good management must have something to do in determining fair rates. The fact that the government has made losses shows that something is wrong in the management. That is the case I presume with all these public utilities. I can remember when the F. & P. M. was first built reaching Flint they had a dinky engine fired with wood, it started at nine o'clock in the morning and reached Saginaw at eleven o'clock at night. There were few passengers. The road was built supposing it would be a paying investment. It was continued many years at a loss. The cost to build that was invested by somebody. It was the same with the Michigan Central R. R. to Saginaw. There were at first very few passengers, the country up there was wild. One man said he located some land in 1848, when he reached Pontiac on his return he was told it would be two hours before the train would leave for Detroit. He started on foot and reached Detroit before the train did. If railroads could then be built

with the trains so far apart and passengers so few why is it in this day and generation when many trains a day are run and loaded with passengers more than can be seated, why don't they pay. Isn't it due to mismanagement? We can hardly get seats in cars on Woodward Avenue running three minutes apart. I would like to have somebody make figures and tell us if it is not true that the trouble is due to mismanagement rather than to rates.

MR. JOSLYN: When manufacturers were calling for labor and were all paying fair prices, railroads under those circumstances with those rates would have gone down. I don't think that we should lose sight of the fact that nearly all these gas companies that have been organized and run with profits were based on the sales of bonds. I believe in a municipality serving itself, paying its own way, abundantly able to supply its own service, giving the municipality needed service. I don't know that these matters are germane but it is as germane to urge that side as it is to urge the side of the corporation asking for increased rates. I don't believe it is a matter of football politics. I think they realized that in the past they took a fair measure of profit, and had a rate guaranteed because there was nobody else engaged in the business. But while they were under the exigencies of the war the spirit of fair play demanded they be preserved from bankruptcy. I don't think it is fair to the government or to the men who carried that on to say that anybody could have operated the trains and secured the men at the wages that existed before the war, because in every other line they have gone higher and had to. We have singled that one fact out and say the government has fallen down. It has made a great success of the Federal Reserve Banks. It may be that a solution will be reached in this matter by taking it out of the hands of the men who are using it for speculative purposes and the time may come when federal ownership will be, as in the case of the banks, operated by men ambitious and great enough to conduct their business successfully and well.

A MEMBER: I want to say a word in behalf of the classes not represented this afternoon. I was interested in these papers and discussions. As near as I can figure it out the public utilities want more money than they have and don't know how to get it. I like that word psychological and imponderable. I go to Detroit frequently and buy all my collars. There are two reasons why I buy my collars there, in the first place they are the kind I want, and in the second place when I go into the door of the place a gentleman who acts as if he were glad to see me meets me. I have waited on the streets of Detroit for a car, a car would go by and not see me, I had two or three cars go by. If I had had a chance to vote about the street car company I would have voted against it. All the common people want is fair treatment. A tax was put on moving pictures charging 25 cents, the men running the shows raised their ticket prices from 25 cents to 30 cents and the people filled the shows. Why? Because they were treated right in there. In a town where there are a number of telephones many have been taken out. One business man who has been running there for ten or twelve years had a bill presented for \$7, there was an extra dollar. He was told his telephone would be taken out if he did not pay the extra dollar. He had made out a check for \$6, but it was not accepted. Another man sent in his money a day late. His telephone was taken out. I had one taken out myself. I am not saying the public utility is not entitled to and should be governed by certain rules. You can make the public do anything you please if you treat them in the proper spirit, that is what you have got to do. They can just as well have a two cent fare in Detroit or a three cent fare on the railroads or anything in reason, it is not a question of rules or figures, it is found in right treatment of those people. While I have been a lawyer for 25 years I have not a very high opinion of the common sense exhibited by a large number of lawyers. The best lawyers have the best common sense and they have as little to do with courts as they can, they settle as many cases as they can outside of court and outside of legal principles.

**PRESIDENT:** The time allotted having passed and having settled certain principles we will recognize the last gentleman who rose and close the discussion with him.

**A MEMBER:** I want to disagree with this man who spoke on railroad management. I have had a little experience with railroads, I think Mr. Stevens is mistaken in saying the government cannot manage railroads without doubling and tripling rates. In the post office and elsewhere men are paid the same as before the war. I could tell a little story that would open your eyes when it comes to railroad efficiency. I shipped a car out at a cost of \$37 before the war and after the war \$87, and I lost several hundred dollars. I used to ship in 24 hours and the last time it took four days to do the same. They used to run railroads on miles, now they run the men on hours and they run so many miles between, and if they can kill time they get time and a half and they do everything they can to delay so as to get over time. I had a R. R. crew lie out on a country side track so as to have more than time and a half. That is where the trouble is.

**PRESIDENT:** The chair will settle the whole proposition, it seems to me the solution is in having an honest sense of duty and doing an honest day's work.

**A MEMBER:** I think this whole question will be settled when the people come to the conclusion they are willing to pay public utilities for good service. We had trouble in telephoning, we couldn't get central, I couldn't get them in thirty minutes, but within fifteen minutes after the news came that the supreme court had reversed the other courts on the right to increase rates, within fifteen minutes we got good service. So when we get rates we get service.

**PRESIDENT:** I would like to continue this discussion for an hour but the fact is that the committee on local arrangements have automobiles waiting to take us for a ride and

lunch. I observe a modest member of the Public Utilities Commission from my own neighborhood recently appointed by the Governor, our people love him as a man and as a real fighting soldier. I am going to ask Major Stewart to say "How do you do" in my capacity as member on this committee on recognition, so that you may know who he is.

MAJOR STEWART: I don't know whether this Public Utility Commission will solve this matter or not, I believe it will, but I cannot talk with the automobiles waiting outside.

Saturday a. m., June 21st, 1919.

PRESIDENT: You will please come to order. The first thing on our program is report of committees. Is the Auditing Committee ready?

Report was read by Mr. Walter S. Foster.

PRESIDENT: What will you do with the report?

MR. CAVANAUGH: I move the report be accepted and placed on file.

After being duly seconded the motion was carried.

For report see Treasurer's report.

PRESIDENT: Is the Nominating Committee ready to report?

Report was read by Mr. Cavanaugh.

MR. CAVANAUGH: If there are no other nominations I move you, Mr. President, that the persons named be declared elected.

The motion was duly supported.

PRESIDENT: You have heard the nominations and the motion that the persons named be declared elected. Are you ready for the question? All in favor will say aye, and the

contrary the same. The motion is carried and the persons reported by the committee are declared elected.

See list of officers.

B. F. WEADOCK: The State of Michigan it has been known for a long time is the most parsimonious in the world. I want to call attention to the present salaries paid to the Justices of the Supreme Court. The amount is \$5,000, which was established in 1893. The value of the dollar has lessened within that time possibly 100% and the work of the court has more than tripled. It is within our province to be helpful to the Justices, for they represent the entire State. There is no inducement to become a Judge of the Supreme Court at the present salary. The Justices are fast getting where they must retire. 81 is the age of the oldest, the average is 63, and their period of service is from two to twenty-four years. I think it is absolutely for the advantage of the State and the benefit of the lawyers to secure proper timber that the salary ought to be raised to a proper point. The present salary is not sufficient to pay ordinary living expenses letting alone additional expenses because of their position. I have prepared a resolution which I would like to submit for suggestion and discussion. It seems to me the legislature is in need of the courage spoken of yesterday. The constitutional amendment was not understood. There was no campaign of education to instruct the people. The legislature declined to take action. I suggest that a committee be appointed of three members from this association with the request that each local association appoint a member to act with the committee of this association, to the end that they be in touch with the members of the senate and house of their respective districts.

Resolution is as follows:

WHEREAS, in our opinion, the salaries of the Supreme Court Judges, established in 1893, are wholly inadequate; and

WHEREAS, the recent Constitutional Amendment, submitted

to the electors of the State, provided an increase in such salaries and, through lack of proper understanding, was rejected by the People; and

WHEREAS, we sincerely believe that said Supreme Court Judges are entitled to adequate salaries; and

WHEREAS, we believe it the duty of the State of Michigan to pay said Judges said adequate salaries; and

WHEREAS, we believe it the duty of this Association to undertake the task of informing the public and legislature of the value of the services rendered by said Judges and to have such salaries increased sufficiently to make their compensation adequate;

THEREFORE, BE IT RESOLVED, that the President is hereby instructed to appoint a Committee of three members of this Association and empower such committee to request the President of each County Bar Association to act with such committee—to take such steps as may be proper and necessary to inform the public and the legislature of the justice of the increase of such salaries and that such committee be authorized to take any action in the name of this Association as in their judgment may be right and lawful to the end that such salaries shall be increased as soon as possible.

I move the adoption of that resolution.

The motion was duly supported and carried unanimously.

MR JOSLYN: I think our bar association of Lenawee County had a matter to bring before the legislature, but it is too late. The Judges of Probate have been derelict in not attending the meeting of the State Bar Association. But this association has a work to do for the legal profession. It is not a question of public utilities but present conditions that lawyers are affected by. They are getting the same fees that they were twenty-five years ago, and it is difficult to secure a remedy because of petty jealousies. If a lawyer is a leader in his own county in this matter it will not injure the rest of the bar if

they are brought up to the proper standing even if there are little petty jealousies and they are afraid to adopt a new schedule for fear of offending their clients. We adopted a schedule and that was filed and they were delighted with it. There are counties adjoining that are not represented here at all that have not been able to work out any solution.

In some counties the Judge of Probate feels that in order to hold his office it is his duty to advise people who come into his office instead of sending them to lawyers, he does that work which no circuit judge would do. Probate courts pass on the evidence, who are not lawyers, and pass on title to real estate. There are cases where they are selling property and accepting commissions and passing upon the abstracts for the benefit of the buyer. I think it is the proper thing for the Bar Association to consider those ills and that lack of harmony in the legal profession. In some counties the legal profession is not making the progress it should. The salaries are not sufficient. The standard has been raised at the University. You want your sons to spend thousands of dollars for education and be prepared to go in before trust companies, etc. Judges of Probates seek re-election. A really large amount of business that ought to go to lawyers is being handled by them. Am I wrong in saying that the matter ought to be handled by the Bar Association? Water, gas and railroad companies are having their ills illuminated, are we, the members of the legal profession going to be smashed?

I think the legislature ought to provide that judges of probate should not draw petitions they are going to pass upon later, nor advise administrators or guardians upon matters that are to come before them for decision. I don't know to what extent legislation might be enacted in the matter of passing upon abstracts of title. If a man is going to audit books he must be a certified accountant, the same is true in the matter of shoeing horses, working as a barber, being a nurse, before you can give anybody quinine, you must pass an examination; but anybody can practice law, draw wills, or pass upon abstracts, draw chattel mortgages without regard

to taxes and bills of sale without knowing the law. That is the blind leading the blind. Are we doing what can be done for the legal profession? If it was a teamsters union they would look out for themselves. I think the legal profession ought to make the legal profession at least as high as the meat-cutters profession, and every local association of lawyers ought to send a representative to the meetings of the State Association. Somebody goes to the operating table and receives a bill for \$200 to \$500, people get into domestic difficulties and the family is broken up and for \$25 a divorce is secured, estates are settled up at a slight cost. Why is this? Because of lack of agreement and harmony among lawyers. Is not this a more important feature for the association to take up? I don't mean that we must just work to get money, but we must have a certain degree of influence to command the respect of the general public. I want to leave the matter open to some members who have been here longer and have had more to do with the work of the association to prepare a resolution along that line.

PRESIDENT: Are there any further suggestions?

MR. RYALL: I am president of my local bar association, and in 1917 there was a resolution, or act, prepared prohibiting the judges of probate from practising in their own courts. The Law of Wisconsin permits judges of probate to act as advisers in small estates which ought to be administered with the least expense.

MR. VAN AMERINGEN: I am not going to make complaint or criticism but I think the criticism made is exactly right, for these courts assume all duties. In this county the probate court has taken matters away from the local lawyers, lawyers from outside have the advantage. The probate court does all the work. I say that is not fair. It is the duty of the probate court to look after an estate and see that it is administered right. It is not his duty to have his stenographer draw

a petition in a case. Another thing, I think the judge of probate should be an attorney of standing.

I was glad of what was said about fees. We are inaugurating a fee system in this county. The lawyers do not have the courage to follow their convictions, do not have the courage to hold together. A lawyer ought not to be afraid his neighbor will do legal work for a little less. I charge what I think I ought to have, I am not afraid. We come to this conclusion, that we ought to think about ourselves and increase our fees to correspond with others. Laborers earn \$6, \$7, \$8 a day. A young lawyer thinks he does well if he makes that. It is said he makes his money easy. We are afraid to charge an adequate fee. How am I going to enforce it when all the other lawyers will hate to do it. We haven't nerve enough to agree in this matter. Everybody says "Let George do it." Nobody is willing to take a stand. If this matter is not taken up by the bar association and a little pep put into it who is going to do it.

This is a very important meeting. I have got much benefit from it. If we look after the interests of the profession instead of outside matters will it not be much better for us.

PRESIDENT: There is no resolution or motion before the association.

MR. BAKER: We are talking on subjects of general interest to the bar, and as a member of the Lenawee County bar I may be able to throw a little light on the subject. Let us have the benefit of the admirable papers that are presented at these meetings, I suppose in these bar association gatherings those subjects ought to be taken up that are nearest to the interests of the profession. We ought to be able to live in a condition commensurate with what is expected of us in the community. Lenawee County has probably as good a bar as exists in the state, we got into a rut where we were doing business for practically nothing. We advocated a bar banquet where we would take up subjects of interest to the profession. Finally

we succeeded in getting through a fee bill, and that seemed to strike rather a responsive chord. That was published and sent out to all the members of the bar in the state. We felt that we would not have the nerve to stand behind that schedule. People complained about the change of fees. We placed that schedule in the hands of the bar. After about three men had criticised it it got so it worked very satisfactorily.

Examinations must be taken by everybody who wishes to work. In Adrian there are something like twelve real estate men all doing well, they draw mortgages and contracts and pass on abstracts, our banks are doing the same thing. If a lawyer does not protect himself what can he expect ultimately? We should appeal to the legislature to prohibit any trust company or institution to transact law business unless they have passed the examination required for lawyers. Why shouldn't we be protected? A man in any profession wants what is due him, he is entitled to it, so should a lawyer, and he is thought no less of if he shapes circumstances for himself. Here is a fee bill that has been in force a year and a half, and every man included in that has increased his income 50% to 100%. Why shouldn't he? In the State of New York litigation is in the courts for years. I wondered how those fellows could live. They have solved the problem. They never turn around but what the court says the lawyer is entitled to fees. In this state we would drop dead if the judge should award a reasonable fee for legal services. We will be glad to place in the hands of the secretary of this association a copy of the minimum fee bill of Lenawee County, and we call upon the members of the bar in each and every county to raise the standard, not only because of justice to themselves but to the real estate owners of the community.

PRESIDENT: I suggest this matter be deferred until later when some member will offer a resolution.

We will proceed with the regular program. We will take up at this time the report of the Committee on Legal Educa-

tion and Admission to the Bar, and in connection with that will have the address of Dean Bates on Legal Education.

Dean Bates reads report and address.

PRESIDENT: If there are no objections this will be accepted and placed on file.

(See Appendix for Address and Report.)

PRESIDENT: We have with us the Hon. Geo. T. Page of Illinois, President of the American Bar Association. He very kindly accepted our invitation to attend this meeting and address our association. Judge Page has been very much interested in bringing about closer relations associate and active between the American Bar Association and the several State Bar Associations. A large portion of our membership is over at Mt. Clemens engaged in an international controversy over there and keeping tab on the officers of our court engaged in that trial. I suggest to brother Joslin if he would attend those proceedings he would obtain some light on the matter of lawyers' fees.

We appreciate Judge Page's coming and feel that his presence and address will have very much wider influence than indicated by those who are present this morning.

(See Appendix for Judge Page's Address.)

PRESIDENT: I feel utterly incapable of giving adequate expression to my own personal gratitude and appreciation of this association towards Judge Page for the excellent address he has given, he came from a busy life to favor us, and I am going to appoint at this time a committee consisting of Mr. Corliss, Mr. Ryall and Mr. Maynard, members of this Association who are represented on the committees of the American Bar Association as a committee to meet Judge Page and see that he is introduced to every member here.

I am determined to close these meetings on time. There is some unfinished business and we have arranged for dinner

and program at 12:30 p. m. There are some committees, two important ones, that have not reported, of which Prof. Goddard and Mr. Bates (G. W.) are Chairmen, I am going to ask them to file their reports and they will be received.

(See Appendix for Report of Committee.)

Are there any resolutions to be presented before we close?

DEAN BATES: I wish to offer the following resolution on the subject of fees.

WHEREAS, the lawyer is now and has been since the establishment of our democratic institutions, the leader of sentiment and thought in every community,

AND WHEREAS, he is expected to champion the cause of the people on all matters affecting the welfare of the masses,

AND WHEREAS, he has demonstrated, at all critical periods, in our national affairs his willingness and eagerness to render aid and assistance to the government as well as the individual.

AND WHEREAS, the expenses of living having advanced to a point making it impossible for the average attorney to maintain his position in the community in which he lives unless he materially increases his fees for services rendered,

THEREFORE, BE IT RESOLVED, that the minimum fee schedule heretofore adopted by the Bar Association of Lenawee County, be accepted by this Association as a fair fee schedule to guide the members of this association in making charges for the services they may render.

I move the adoption of the resolution.

The schedule is as follows:

## MINIMUM FEES.

Abstracts, examination of .....	\$5 00
opinion in writing, additional .....	5 00
Bill of sale, drawing of .....	2 00
Claims collection of, minimum charge .....	5 00
\$10.00 or under, fifty per cent	
\$10.00 or over to \$300.00, fifteen per cent	
\$300.00 to \$1,000.00, eight per cent	
\$1,000.00 or over, four per cent	
Suit fee, plus commission, whole not exceeding fifty per cent of claim.....	7 50
Consultation fee .....	2 00
Deed, drawing of.....	2 00
Divorce, pro confesso .....	50 00
Land contracts, drawing of .....	2 00
duplicate, extra .....	1 00
Lease, long form, drawing of .....	3 00
duplicate, extra .....	1 00
Lease, money rent (short form,) drawing of .....	2 00
duplicate extra .....	1 00
Mortgage, real and chattel, drawing of .....	2 00
Papers, miscellaneous, drawing of, or other short work .....	2 00
Partition proceedings, uncontested .....	100 00
Quieting title, uncontested .....	100 00
Reports of financial standing of residents of town....	25
out of town .....	50
Retainer, (In addition a deposit of \$10.00 clerk's fee and expenses of getting service of process, to be re- quired before commencement of proceedings in all courts of record).....	15 00
Services, courts of record, per diem .....	35 00
justice court, per diem .....	25 00
office work inside or outside of office, per diem..	25 00

State commissions, etc., per diem.....	\$35 00
Supreme Court, per diem .....	50 00
Will, drawing of .....	5 00
Actual expenses incurred in behalf of clients in foregoing to be added to charge, including court costs, etc., (construed to include all con- tested or litigated matters.)	

The motion was duly supported and carried.

PRESIDENT: I will add to the committee to receive Judge Page, Mr. Hamilton who is our Vice President of the American Bar Association.

MR. JANUARY: I move that the Association place upon record a vote of thanks to Judge Page for coming to this State and delivering this address.

PRESIDENT: I suggest that your resolution include Gov. McCall. Perhaps I can say there is no one in the American Bar Association who has done more yeoman service and been so useful in building up and training the American Bar Association as Judge Page, and before he became Judge the American Bar Association had the honor of making him president of that body.

Mr. January included Gov. McCall in his resolution.

The motion was duly supported.

PRESIDENT: It is moved and supported that the appreciation and thanks of this Association be extended to Gov. McCall of Mass., and to Judge Page of Illinois for their attendance upon the meetings of this Association and the splendid addresses they have delivered. All in favor will signify it by rising.

All members rose.

MR. FOSTER: I move a vote of thanks to the Washtenaw

Bar Association for the many courtesies they have extended to us.

The motion was duly supported and carried.

**PRESIDENT:** We have our dinner at the Michigan Union at 12:30 p. m., and we wish to begin our program promptly as some members desire to take trains for home. The Association is now adjourned.



## APPENDIX



## **PAPERS AND ADDRESSES**



## THE CHARTED COURSE.

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### Address of the President

GEORGE CLAPPERTON, OF GRAND RAPIDS.

In obedience to established precedent, the first number upon our annual program is an address by the president. In that address I should like to voice the spirit that animates the membership of this Association and which, I pray may brood over the deliberations of this annual meeting—I mean the spirit of Vigilant Americanism.

The year since last we met is the most momentous in human history. In that year has come the victorious termination of *the war*, the greatest catastrophe of the world.

The war marked the end of one great epoch, and the beginning of another, in the political and social development of the human race. For more than four tragic years the mighty nations of the earth have been engaged to the utmost limit of strength, the last ounce of energy, in wielding the primeval forces with which God Almighty made his universe, to destroy men and the handiwork of men.

That war was a crucial incident in God's eternal purpose in shaping human destiny. This great war for self-preservation of freemen, the final overthrow of autocracy and the enthronement of democracy in the government of men was bravely fought and nobly won. And now the thought and activity of the victorious peoples are directed to the proposition that such a war shall never come again. Personally, I have no apprehension that such a war ever will or ever can come again. True, autocracy still remains powerful in our world, but in my judgment, so long as history shall be read by men, so long as reason shall exist in human minds, no power can again undertake to dominate the world, through war. Even Japan may never forget the lessons of this war. So long as human nature remains in this old earth of ours, there will be recurring wars and continuing conflict and strife among nations and peoples, great and small—but for different purposes than those for which this war was waged.

One mighty form of tyranny has been overthrown forever, but other forms of tyranny, strong and implacable, will appear—indeed, they are here now. The standards and powers of the old order are

passing out of our world, but a new order of different standards and different powers is on the way. Human selfishness, greed, arrogance, rapacity and ignorance, purple robed, will fiercely strive to dominate, and other mighty conflicts for freedom and right, and justice and good government will come—are already imminent.

President Wilson, in one of his impelling phrases recently proclaimed that "the peoples of the world are awake, and the peoples of the world are in the saddle. Private counsels of statesmen cannot now and cannot hereafter determine the destinies of nations." But peoples in saddles are unsteady, and uncertain riders and their riding may be for the fall of riders, and saddles and steeds. Furthermore, statesmen who thus in ominous phrase are to be unhorsed and trampled under foot of peoples, and who cannot hereafter determine and shape the destinies of nations, may include the type of Washington and Lincoln as well as the type the President obviously had in mind.

The supreme triumph of the sword over autocratic tyranny has left the world in political, social and industrial chaos. All governments are imperiled. The supreme effort and final test of the new order of government is yet to come—has already begun. The great issue is whether mankind shall be subjects or citizens.

May I not without offense advert to another insinuating phrase of our absentee President, directed perhaps toward the new order in his recent address before the French Academy of Moral and Political Science—"International law has been handled too exclusively by lawyers. Lawyers like definite lines. They like systematic arrangement. They are uneasy if they depart from what was done yesterday. They dread experiments. They like charted seas, and if they have no charts they hardly venture to take the voyage." Of course, such liquid phrase has the superficial effect of pleasing popular fancy but hardly appeals with convincing force to the legal or thoughtful mind.

The American legal voyager over seas, known or unknown, is perhaps less tempted than other men to heed the siren voices of the air, and more inclined to sail in charted seas and to be guided by fixed stars in God's azure skies, in order to reach the objective haven of safety and peace. Indeed, it may be doubted whether the legal navigator would launch fourteen points upon a great sea of darkness or suspend the duties of chief executive under our constitution to personally direct a European conference. To the legal mind, when American representation in the great Peace Conference was required, the charted course of Constitutional navigation would have called for the nomination of delegates from among our great statesmen and international lawyers and their confirmation by the Senate of the United States, such delegates to be the accredited representatives of America in such conference. When the chief executive appointed himself and "our other inexperienced navigators of his own choosing, regardless

of the advice and consent of the Senate part of our treaty-making power, to navigate uncharted seas, it resulted in the representation of himself, and not the nation or the American people in the settlement of the greatest issue in the annals of mankind.

The lawyer navigator of political seas would provide himself with a reliable compass and rudder and follow the beckoning polar star of the American Constitution, the supreme law of the land. The lawyer would follow the charted constitutional course in driving our Ship of State and leave Lenine and Trotsky, Debs and Berger to plunge forth upon uncharted seas of unrestrained democracy. The lawyer would aim to make the charted course of the Republic safer and clearer for the generations of men to navigate.

The old order of government is indeed changing. The mighty pendulum of government is swinging—swinging at random through changing centuries, from monarchy and autocracy to representative government, from representative government to functionless government of peoples, from Constitutional Government to Bolshevism or direct democracy gorged with freedom laying the foundations of despotism. The old order is changing in our experimental government of the people, by the people, for the people. May we in our day and generation restore this government of ours, the great experiment of human history—to its charted course under the Federal Constitution, to the end that there may be preserved for the American people—and all free peoples through the generations of men, the liberty and equality of conditions we have enjoyed within the law, for the law and by the law.

Our Ship of State, the great Republic, was launched upon a perilous voyage over unknown and unsounded seas, under the most reliable chart ever devised by the brain and purpose of man—the Federal Constitution. It followed under Divine Providence, the stars of human destiny, toward the haven of permanent peace and tranquility of individual liberty, of justice and order, of equality of conditions among men. It has covered but a short distance of its long and uncertain voyage. It has encountered storms and perils and grave Crises. Its charted course is the "last best hope of earth." Thomas Paine stopped the publication of the "Crisis" when he heard the news of the treaty of 1783, with the remark, "the times that tried men's souls are over." But John Fisk on this observes that the next five years were to be the most critical period of all—and in turn said that "The most critical period of our country's history was the period between 1783 and the adoption of the Constitution in 1788,"—"the finest specimen of constructive statesmanship that the world has ever seen" embodying the saving principle of representation in self-government. This principle marked the distinction between "democracy" and "republicanism" that is between direct legislative action and

representative government. The founders were substantially united upon this principle. History afforded no example of so large an act of constructive statesmanship as the adoption of the American Constitution. That Constitution saved the American people from anarchy.

Samuel Adams "wanted the whole world to realize that the rule of a republic is a rule of law and order, and that liberty does not mean license." And Washington, in his brief but immortal speech at the Federal Convention said, "Let us raise the standard to which the wise and honest can repair; the event is in the hand of God." The government to be established had for its basis the republican principle, the sovereignty of the individual citizen. To make a federal government immediately operative upon "Individual Citizens" the federal courts were organized to pass judgment in all cases in which "Individual citizens" were amenable to the National law. These courts were charged with the interpretation according to the general principles of the common law of the constitution itself. "This is the most noble as it is the most distinctive feature in the government of the United States." This feature is the saving power of our great charter of self-government. The practical working of that constitution during the first thirty years of the nineteenth century was directed by the luminous decisions of John Marshall and other great jurists foremost among founders of the Union.

One crisis had passed but the framers of this great chart of government glided into the deepening shadow of impending Civil War. Then another great storm was weathered, another great crisis safely overcome. This was succeeded by a period of half a century of unprecedented growth in population, native and foreign born, of the development of complex political, social and industrial conditions beyond all conceptions of the founders of the republic.

These conditions now involve the application of the principles of constitutional self-government to a new social order without precedent or parallel in all the annals of democracy—a new crisis which will subject our form of government to the final supreme test, of the strength and the efficacy of democracy among men. The most conspicuous and dominant figure emerging from the throes of the great war, is not Hindenburg or Kaiser, not Haig or Lloyd George, not Foch or Clemenceau, not Pershing or Wilson, but the plain American citizen charged with the duties and responsibilities of sovereignty in the great republic. The most powerful and potential nation coming out of the chaos of world conflict is the United States, with one hundred million individual rulers composed of very human beings, just ordinary men and women. Upon this people and upon this Nation the eyes of the world are turned with flickering faith of despair. In all the political firmament that envelopes our world there is no other

fixed star of hope. With abiding faith in the God of Nations I firmly believe that this *Republic* is the star of political destiny.

And yet, the lawyer cannot be oblivious to the fact that for a generation this republic has been rapidly drifting in a great gulf stream of popular government, away from the charted course of the Constitution, and that during and since the great world war there has been evolved two extremes of government, autocratic power in practice and Socialistic democracy in movement against constituted government. The condition that happily did not exist in America when DeTocqueville wrote of American government has come and, in the United States "that numerous and turbulent multitude does exist, who regarding the law as their natural enemy look upon it with fear and distrust."

The old Ship of State is now in our day and generation entering the most perilous part of its momentous voyage, of its charted course. Above it the skies are black with pent-up storms and beneath it the angry waters are lashed with the murmurs of seismic forces. The times that will try the souls of men have come. We are entering the great crisis, the crucial test of self-government. The political and social order is changing, is being revolutionized, and new and mighty destinies for America and mankind are impending. We are approaching universality of democracy as a governing force throughout the world.

The forces of disorder and unrest now seek to annihilate regularly constituted government. The world is facing the irresponsible tyranny of unrestrained democracy. Democracy undirected, unrestrained, subjugated peoples, uncaged and gorged with license, demented and controlled by wild brutal instincts is bolshevism. The free peoples of the world have become elated, satiated with the specious phrase, that war has made the world safe for democracy. But the world is not safe for democracy. Democracy is not yet safe for the world.

The war has left hundreds of millions of people deprived of the steadying force of regularly constituted government unprepared and unfit for self-government. The most that can be said of these freed peoples is that they are entitled to opportunity to develop capacity for self-government—perhaps under mandatory power and direction. Self-inflicted democracy under existing conditions would be disastrous to them.

I feel that there is no substantial ground for apprehension as to Bolshevism in the true sense of the term in the United States. There is a good deal of sense in a recent expression of Alexander F. Kerensky, who knows something about this human malady: "Bolshevism cannot grow in a land where people are well fed and generally content as they are in the United States. Bolshevism is a disease of

tired and exhausted nations and of populations that have been abused for years and decades. You're perfectly safe from such a disease in the United States, I assure you." Nevertheless, the United States, with its vast mixed population and complex conditions, is not safe for democracy. Direct democracy is government dominated by mere numbers and partakes of the weakness of the whole community, the rule of individual sovereignty without saving qualifications. The great political world problem today is whether self-government may be made safe for America, and ultimately safe for the world, through the success of the great experiment in self-government under our constitution—the Republic. Shall the governing force of the Republic be so directed by the active patriotic spirit of Vigilant Americanism as to preserve individual liberty, and develop rather than destroy equality of conditions among men? Shall we, the people of the United States, organized under constitutional government, have political and social evolution or revolution? Shall this nation permanently attain and retain the liberty and equality or be subject to the tyranny and despotism of democracy? Political and social evolution or revolution—that is the problem—to make the power and stability and efficiency of democracy under our constituted form of government, safe for America and through America ultimately safe for the world.

Samuel Gompers, the powerful leader of organized labor presenting itself as a claimant for the crown of supremacy over government of law, recently gave expression to the true vision when he said, "We have used the term democracy glibly and often without understanding." That admonition might also be well directed to other classes of citizens who assume superiority of intelligence and virtue. Liberty and equality require the supremacy of the law. Our constitution is a guaranty of the supremacy of the law as distinguished from a government of functionaries. All forms of absolutism and autocracy, including the democratic form, spurn the idea of fundamental law in government.

These are the truths that the present and future generations of American citizens, men and women, should and will learn and loyally maintain. America must restore or inaugurate and maintain a reign of law under our constitutional form of government to dispel enmity and conflict between individuals and between classes. The absolute sovereignty of the individual citizen must be forever maintained. The intelligent will of the majority must remain the source of authority. But we must continue to guard against the wrongful exercise of sovereignty, the absolutism and tyranny of the majority. Everything depends upon the intelligence and virtue of the majority. It has been said that the voice of the people is often anything rather than the voice of God—and that the people can do

no wrong is as misleading as that the King can do no wrong. And again, "If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority." Said Madison, "It is of great importance in a republic not only to guard society against the oppression of its rulers but to guard one part of society against the injustice of the other part, for justice is the end of government." What is called the republic in the United States is the tranquil rule of the majority. But the power of the majority itself is not unlimited. "Above it in the moral world are humanity, justice and reason, and in the political world vested rights."

In the midst of this changing order it behooves the sovereign citizen, especially the lawyer, to assimilate or review the elementary principles of a government of law and order under our constitution; to note and understand the distinction between the ancient (and present) idea of democracy and our modern Constitutional democracy. The former was the rule of the "demos" of free and equal citizens an attempt to secure the liberty and promote the welfare of all by distributing political power and rule equally among all. The latter vests the power and sovereignty in all—in the people—but the exercise thereof is entrusted to selected representatives of the people. The former was always direct, the latter is representative. The one can exist only in a small state. A great nation under complex conditions, must resort to the other.

The populace is inclined to give free reign to passion and prejudices "to envy and oppress the nobler and better minority whose existence is a standing reproach and protest against its own rule." The worst quality of the "demos" comes to the surface, ignorance, pride, arbitrary caprice, the love of frequent change. Again, the chief characteristic of every democracy is the love of equality—and masses are inclined to want to act for themselves because representation gives a certain preference and appearance of superiority to chosen representatives. They fail to recognize the superiority of intelligence and virtue. Equality which commends itself to the many is equality in numbers. Its formula is not "each according to its merits" but "one as another."

This equality on which direct democracy is ostensibly founded becomes a delusion and a sham when advancing civilization and complex conditions have brought inevitable differences and contrasts. The only successful democracy is representative democracy as developed in the United States under our written Constitution, the only great experiment in National democracy under modern complex conditions. Under this form the citizens participate directly in public affairs, such as voting on constitutional and fundamental laws, but generally govern through their representatives. The people are the

source of power and authority, but the general affairs of practical government are delegated to representatives.

Montesquieu declared the principle of democracy to be virtue. But virtue as a political principle presupposes not the equality of all but a respect for the moral worth and intelligence of representatives not found in a pure democracy. Virtue is the political principle of representative democracy, a more moderate and more noble form of democracy because it partakes of the advantages of aristocracy, its principles being that the best may direct the practical affairs of government in the name and by the authority of the people. Representative democracy ascribes the right of sovereignty to the majority, but intrusts its exercise to the minority. The great difficulty, the supreme test is in establishing and maintaining a system that secures the best men in intellect and in character, to exercise authority as representatives. True representation can only be secured by a system by which every element and every interest in the nation shall be represented in proportion to its relation to the whole. Number is important, but not sufficient. The Constitution recognizes that the majority has neither the time or ability actually to exercise the duties of self-government, but credits the majority with sufficient intelligence and interest to participate in elections and select the fittest men for its representatives. It demands less from the citizen than direct democracy but more from its representatives.

And so all serious and earnest reflection brings us logically back to the Republic and the intelligence and responsibility of the citizen to make democracy safe for men everywhere. May we summarize the views that lead to this conclusion: Under the plan of our Great Charter was established the best form of government mankind had ever known. It has been modified and has largely ceased to function in accordance with the original plan. We have steadily drifted away from the *charted course* of the Constitution, of government by law toward the dangers of direct democracy.

By direct participation in legislation and other governmental functions we are passing from the republic toward democracy, from representative statesmanship to demagogism, following a course of progressive retrogression. When we theorize about making the world safe for democracy we are oblivious to the fact that democracy is the most dangerous form on earth, a form that has never given good government. The government of the Constitution was that of a republic, sometimes miscalled representative democracy, not a democracy. The framers of the Constitution sought to avoid the evils of autocracy on the one hand, and of democracy on the other, by establishing a republic, the first republic the world had ever known. The tendency of democracy with respect to industry and property is communistic or socialistic toward the destruction of

both. The tendency of a republic is toward individual rights, ownership, the supremacy of the law and equality of conditions. The attitude of democracy toward law is the enactment of the will of the majority without regard to whether it is based on intelligence and deliberation, or directed by ignorance, passion, prejudice and impulse. The attitude of Constitutional government toward law is the deliberate enactment of laws through representatives, of the intelligence and virtue of the people and the administration of justice. Aristotle's classification of the forms of government comprised the two extremes represented by monarchy, a government of one, and democracy, a government of the masses. It was reserved for the founders of this republic, the framers of our Constitution, to found a government that preserved the advantages and guarded against the evils of the two extremes. Imperfectly applied, it has still preserved the best form of government ever devised, the nearest approach to a government of law, rather than a government of men. When the Constitution was adopted the rights of democracy had been safeguarded by an organized government. The citizens did not exist for the advantage of the state. The state existed for the benefit and protection of the citizen. That Constitution may be adapted to the changing needs and conditions of expanding complex life but its fundamental principles are unchangeable. The Constitution offers a legal and adequate remedy for every evil that afflicts the body politic.

The constitution embraces just four essential elements:

(1) An executive and (2) a legislative body, who, working together in a representative capacity, have all power of appointment, all power of legislation, all power to raise and expend money and are required to do just two things: (3) to create a judiciary to pass upon the justice and legality of their governmental acts and (4) to recognize certain inherent individual rights. The founders were thinking of "liberty, of representative government, of protection against tyranny and spoliation, and of ways and means by which public opinion might in orderly fashion, express itself in statute laws, in judicial judgments and in executive acts." "It is a noteworthy and singular characteristic of our American government that the Constitution provides a means for protecting individual liberty from invasion by the powers of government itself, as well as from invasion by others more powerful and less scrupulous than ourselves. The principles underlying our civil and political liberty are indelibly written into the Constitution of the United States and the nation's courts are instituted for their protection."

This representative republic under the Constitution of the United States, says the same writer, "Is a more advanced, a more just and a wiser form of government than the Socialistic and direct democracy which it is now proposed to substitute for it."

Said another American author—"I would fight for every line in the Constitution, as I would fight for every star in the flag, for flag and constitution will live or die together." "I know not if the times are ripe or if events are merely gathering to a head; but soon there must come someone—some Washington in the field or some Marshall in the forum—who will sound a trumpet that will once more rally us to the defense of the law."

Every departure or variation from the form of government provided by the Constitution has been a dangerous experiment. The Republic is at this hour engaged in the consideration of one of the gravest questions ever presented to a great nation—the determination of the Treaty of Peace and the proposed League of Nations covenant. Under our Great Charter the responsibility rests entirely upon the President and the Senate of the United States as co-equals in the treaty-making power of the government. The correct determination of this question calls for the exercise of the highest degree of deliberate wisdom and judgment. The fate of the nation hangs upon it. And yet, we are confronted with the astounding proposition that this treaty-making power is not to be trusted but is to be influenced and directed by some indefinable expression of popular will. The suggestion comes that the President will "swing around the circle" in a speechmaking tour in an appeal over his co-equal in the treaty-making power to the populace in mass meetings. In my judgment such a course would not be in accord with the philosophy or spirit of our Great Charter or with the wisdom and courage of its founders. An unconstitutional plebiscite might command some degree of wisdom and deliberation in popular expression, but the course proposed would tend to substitute public clamor, mere voices of the air, for the intelligent consideration and deliberate wisdom and judgment of our highest representative body under the Constitution.

There never was a time in the life of the Republic when the interests of this great people and of civilization required such deliberate and reverential observance of the spirit of our Great Charter of liberty and self-government as in this crucial hour of our National destiny. Socialism, anarchy, initiative, referendum, judicial recall, government ownership, are but phases of democracy, dangerous experiments which imperil the very foundations of the Republic. They are each and all un-American.

When one great President seeks by a process of emasculation to sap the authority, strength and virility of our Constitutional courts by subjecting their decisions to the approval of a majority vote, and subject legislation to popular direction and approval, and another great President and a National Congress are coerced by the threat of a railroad strike to enact a law at the behest of a special interest, arbitrarily fixing hours of labor and rates of wages, the

fundamental principles of sound Constitutional government are imperiled. When Constitutional amendments foreign to our theory of individual freedom and Constitutional rights are made not with adequate reflection and consideration, but by hasty popular will, Constitutional government is imperiled. When, ponderous volumes of law are initiated by general petition and enacted by popular vote, Constitutional government is weakened and in danger. When non-partisan leagues seek to abrogate constitutional protection, eliminate the primary courts of justice, and nominate and elect judges, pledged to construe the law and the Constitution of a state as political conventions desire, making judges of the courts of law mere political delegates, a pistol is aimed at the very heart of our representative government. When an American lawyer, giving counsel to a great organization of American labor, admonishes his client that "one of the gravest fundamental questions with which we have to deal is the preservation of a truly democratic government against what has often been called the 'aristocracy of the robe'—a note of alarm has been sounded. When the saving limitations of the Federal Constitution, upon the tyranny and excesses of the majority of voters are removed, representative government is destroyed and unrestrained democracy established. When the legislative, executive and judicial departments of our government are subject to the unlimited, unrestrained, direct action of temporary majorities of voters, American bolshevism takes the place of constituted government. When all these things take place there is established the tyranny of majorities, a tyranny which may be as ruthless as that of military autocracy.

There is no legitimate place in this republic for the autocracy of capital or the autocracy of the proletariat. Both must be subject to the restraints of constitutional limitations upon arbitrary power and to the supreme majesty of the law of the land. It was for the protection of civil liberty and equal rights that Constitutional limitations were imposed upon the exercise of power.

This over-legislated, over-regulated, over-commissioned, over-governed people has drifted far from the moorings and the charted course of our Constitutional form of self-government. The rapidly growing tendency in this government, to do through direct will and action of changing majorities, those things which majorities cannot safely and rightly do is subversive of the principles of Constitutional self-government and destructive of all government. The average citizen knows little of the problems and duties of the courts of justice and less of the purpose and necessity of a constitution and the means of enforcing it. They have the ballot practically without qualifications and unrestrained by legal limitations of power can do anything they choose, and the danger arising from popular inexperience, passion, and prejudice is very great. In the past four years men have laid

down their lives that government by law and not by might shall prevail. Yet here at home men assert the doctrine that, there is no such thing as an established constitution, or government of law which any temporary majority need respect, and people are being systematically taught that American principles of government are wrong and are to be opposed, and resisted and the vagaries of alien agitators substituted.

The present age of the Republic may appropriately be designated as the age of the demagogue. The demagogue is the natural product, indigenous to the soil, of democracy. The demagogue is the advance agent of the mob. He is essentially destructive rather than constructive. Posing as the friend of the people, he makes an insidious appeal to popular ignorance, prejudice and passion, and weakens public faith in the fundamental principles of our government and in its wisdom and justice. The cynical Carlyle must have had this species in mind when he likened democracy to a box of vipers—each trying to get to the top. But every demagogue has his day. His influence will diminish with the increasing wisdom, virtue, common sense, common honesty and patriotism of the American people. He has no legitimate place in the philosophy of our constitutional government.

I have abiding faith in the republic. I believe it will pass safely through this "most critical period." The ship of state will survive the test of storm and wave. Self-government under our Great Charter will endure and become safe for this people and for the world. The spirit of the great founders, that of Vigilant Americanism, will prevail over all the elements of disintegration and destruction. There will be periods of unrest, recession and retrogression, but the Nation will not be permanently diverted from its charted course. The philosophy of our Constitution will guide aright. The permanent maintenance of the Republic will be the greatest performance of history—the supreme test of the ability and endurance of a free people. The future of mankind hangs upon the results of our experiment. The greatest service the American people can perform for mankind is to complete their Divinely appointed task—to establish a government of law and order that will endure forever. America is shaping human destiny.

I have long believed that the legitimate period of our splendid isolation is over. When this republic became a recognized world power it necessarily assumed the responsibility of such a power among the nations. God never made a nation great without great responsibility. This nation must do its part and exert its influence under Divine Providence in shaping the destiny of mankind. But first of all, its chief duty is to establish, maintain and develop its own nationality, its own strength and character—to carry out the

great experiment of history; to build a Republic upon the foundation of our Constitution, strong and secure for the maintenance of individual liberty and equality of conditions. That Republic will be the proudest heritage of the future and our greatest contribution to civilization and mankind.

The war has taught Americans the greatest lessons of citizenship that may save the Republic and the world, viz., the spirit of service and sacrifice; the inalienable duties, as well as the inalienable rights of humankind. The spirit of service in the faithful performance of those duties will solve the problems of democracy, will direct this government of free people upon its charted course for permanent democracy for the world. The spirit of service and recognition of inalienable rights and duties of men will subordinate to or associate self-interest with, the common good, will solve the crucial problems of capital and labor and other conflicting interests that imperil social order.

During the past year we have endeavored to arouse among the members of this Association a sense of the power and necessity of American education, and American propaganda and of the benefits of self-government under our Constitutional plan. As we have pointed out through our literature, the propaganda we most need is the right and vital teaching of true Americanism. We must Americanize the alien—instruct primitive folk in the first principles of citizenship—bring them to understand that Democracy is first, the government of self. We must teach the American public the essentials of our Republican faith—teach the populace how to rule themselves—that true democracy is based not upon the rights but upon the duties of man—to place the common good above our own good—and finally that democracy means responsibility and service of citizens.

May the members of this Association, the lawyers of a great constituent commonwealth, appreciate their duty, the responsibility of their citizenship and their great profession, and aid to the utmost in this critical period of self-government, the permanent establishment of its fundamental principles.

Listen, "The authority Americans have intrusted to members of the legal profession and the influence these individuals exercise in their government is the most powerful existing security against the excesses and dangers of Democracy." This was written by the great Frenchman, DeTocqueville in his philosophical exposition of the fundamental principles of Democracy in America three-quarters of a century ago. And again, he said, "Lawyers are attached to public order beyond every other consideration and the best security of public order is authority. It must not be forgotten that if they prize the free institutions of their country much, they nevertheless value the legality of these institutions more." "I question," said he, "whether democratic

institutions could long be maintained, and I cannot believe that a Republic could subsist at the present time if the influence of lawyers in public business did not increase in proportion to the power of the people."

Lawyers know the charted course of the supremacy of our federal constitution and the majesty of the law of the land, and know the meaning of the greatest experiment in democracy that the world has ever tried—they know that the Republic has as yet hardly been tried. May they appreciate their responsibility and power as sovereign rulers of the Republic to the end that America, in the language of Mr. James M. Beck, in addressing the last American Bar Association, "May point the way to that far off Divine event toward which the whole creation moves when the rules of justice, as formulated by the common conscience of mankind shall have complete sway throughout the world."

## A QUESTION OF COURAGE.

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### Some Phases of the Railroad Situation

BY FREDERICK W. STEVENS, ANN ARBOR.

*Mr. President, Ladies and Gentlemen:*

I acknowledge the honor shown me by the committee in charge in asking me to address you.

The time I can appropriately occupy is quite limited and I have had difficulty in deciding upon a subject. You are interested in all public questions. It may not be considered amiss, here among old friends, if I spend a few minutes in mentioning some facts and in expressing a few thoughts bearing on what I consider to be a pressing and highly important public matter. I refer to the legislation that should be enacted by Congress on the subject of the railroads.

My personal connection with the railroad business has been a slender one for several years. I have no connection, professional or otherwise, with the pending efforts of railroad security holders or railroad executives; but I have read much upon the subject. Not merely railroad security holders but also railroad employees and shippers and travellers,—and these four classes take in everybody,—are interested in solving the railroad problem *right*.

It is such a vast subject that to discuss it as a whole at any such gathering as this, is altogether impossible. I shall confine myself to a few phases only.

There are some things the average man knows about the railroad situation. He knows he is not in favor of the continued operation of the railroads by the federal government. *Why* he desires to have governmental operation cease, is a question I shall mention later. He knows that the idea, sometimes before expressed, that the railroads can be run more efficiently and at less cost by the federal government than by the railroad companies, is a false idea. And in this fact, I wish to remark parenthetically, a great stride has been taken by this country in removing the menace of paternalism. Post-war governmental operation is not advocated by many, if any, either in the case of railroads, telephones or ships.

But I believe there are many startling facts, regarding railroads which the average man does not know, facts which create the existing

railroad problem; and that problem concerns everybody, whether he knows it or not. I believe there is no general realization, for example of the extent to which railroad expenses have been increased by governmental action, in the form of laws and of decrees of the Director General of Railroads; that there is no general appreciation of the seriousness, from the standpoint either of railroad security holders or of the country's welfare, of the railroad situation. It is important that good citizens in every state be made to realize the facts and be induced to use their influence with their representatives in Congress to hasten proper and courageous legislation.

Now for a few facts. The volume of railroad business in the year 1918 under governmental operation was about the same as the volume of business in 1917 under operation by the railroad companies,—to be exact the ton miles of freight handled in 1918 was only one and eight-tenths per cent greater than in 1917, ton miles being, I believe, the proper means of comparison of volume. Does the average man know that in 1918, the government collected nearly *eight hundred million dollars* more than the railroad companies themselves would have been able to charge for the same service and the same volume of business, at the pre-war rates, that is to say, at the freight and passenger rates in force immediately prior to governmental operation? It is true. If the increase of rates by the government had been given effect in January, 1918, when governmental control began, instead of in June following the eight hundred million dollars of increase I speak of would have been in the neighborhood of *one and a quarter billion dollars*.

Does the average man know that notwithstanding an actual increase in *gross* earnings of nearly *nine* hundred million dollars, the *net* earnings of the railroads for 1918, under governmental operation, were about 285 million dollars less than the net earnings of the same railroads in 1917? It is true. In other words, in 1918, while *gross* earnings, with the aid of governmental installed rates showed an increase of over 21% over 1917, a gain of nearly 900 million dollars, *net* earnings were about 285 million dollars less than in 1917, or a decrease of 24%.

Does the average man know the principal reason for this vast difference in net results? Has he any conception of the enormous increases of the railroad payrolls under government operation, at the instance of one man clothed with arbitrary power? Does he know that one year's increase in wages, as granted by the government's Director, is about three times the total amount of the annual dividends paid by all the railroads combined? Does he know that the railroads are getting poorer and poorer, despite the fact that the shipping and traveling public is paying greatly increased rates for the service rendered to it? The net earnings of practically every leading railroad system are *substantially* less than before governmental control, largely because

of the enormous increases of the payrolls. Strong systems like the Pennsylvania's Eastern District and the Illinois Central's Southern District failed to earn their charges in 1918 and in the first three months of 1919.

Perhaps you will recall the Adamson Law, so-called, passed by Congress in January, 1916, to avert a threatened general railroad strike, a law purporting to be an eight-hour law, but being in reality a legislative increase of the wages of employes, being the first Act of the kind ever passed by Congress. Does the average man know that as a result of that law and of the various increases of wages granted by the government since January first, 1918, covering all classes and amounting on the whole to more than 50%, the railroad payrolls for the current year will be about *one billion dollars* greater than the payrolls of the year preceding the enactment of the Adamson law? It is true. And it is said to be true by those who ought to know that notwithstanding the vast increase by the government in the wages of railroad laborers, their efficiency has actually decreased, that more men are employed, and that it requires more men than before, to render the same amount of railroad service. This has been asserted in public addresses many times in the last few months, and I have heard of no denial of it. Within the past week Walker D. Hines, the Director General of Railroads, has issued an appeal of some length to railroad employes generally, an appeal for greater efficiency. It has been posted no doubt in railroad terminals and stations, where all employes may see it and has been published in railroad journals. The remarkable thing about it is its last paragraph which I read:

"I sincerely want your assistance in demonstrating that the railroads may be operated successfully even though the wages of its employes have been materially increased."

Does the average man know that the government's operating deficit of 1918 is being added to every day in 1919 at the rate of about *two million dollars a day*? It is true. The deficit from January first to the end of April was about two hundred and fifty million dollars. At this rate, the deficit for the year 1919 will be 750 million dollars.

It is interesting to recall at this point a startling announcement made a few years ago by a man then prominent in the newspapers, now a Justice of the Supreme Court of the United States. He said in effect, did he not, that by attainable economy and efficiency the railroads of the country could save a million dollars a day! What a pity he was not made Director General of Railroads, with the almost unlimited power given by the war measure, power to select every railroad official, power to discharge and substitute, power to make wages higher or lower, power to consolidate systems, power to route traffic

regardless of ownerships, power to do anything that he might believe would result in economy and efficiency. The President should have drafted him for this railroad job.

Does the average man know that the huge loss in 1918 and the loss of more than two million dollars a day for every day since January 1, 1919, *must be met by general taxation?* On account of railroad operating losses alone, arising from governmental operation between January 1, 1918, and April 30, 1919, a period of sixteen months, there must ultimately be paid by the taxpayers of the country a total of over *half a billion dollars*. And the loss goes on. And if it were not for the taxing power of the government, the railroad administration would now be bankrupt.

Does the average man know that a further large increase in freight rates is now required and is now in contemplation by the government, as a means of stopping that deficit of two million dollars a day? It is true. With government bond money and the taxing power to fall back on, the government can dally with daily deficits, and therefore we read in the newspapers that the new Director General is not inclined to exercise at present his power to put increased rates into effect. But what would the railroad companies do under the same circumstances?

I alluded to the fact that the average man favors an early ending of governmental operation of railroads. *Why* does he favor it? Is it because of his belief or hope that he may again ride for two cents a mile and ship his goods at lower freight rates? If so, he will certainly be disappointed, as you can see. The facts I have so briefly alluded to and which stare in the face those who study the problem, show that the present situation can be met only by an *increase* of rates or by a *decrease* of wages. Do you see any probability of the companies getting a voluntary reduction of the increased wages granted by the federal administration? Would any one of you like to be a manager or a director of a railroad company that undertook to *force* a general reduction of wages of its employees? Do any of you think it is within the range of possibility that wages will be reduced in some other way,—by legislation, for instance? Do any of you know any other way of bringing about a substantial reduction of operating expenses,—for instance, by reduced taxes, by reduced interest charges or by reduced cost of materials and supplies?

I believe that no one claims that there is a chance of a reduction of operating expenses down to a point where they can be met by the pre-war freight and passenger rates. I think no one claims that even the existing war time rates are sufficient to meet expenses and pay a fair return to the capital employed, even if all questions in dispute as to capital employed be laid aside and the minimum be taken.

I have referred only to the matter of rates and expenses.

Does the average man know that under federal control there has arisen and there still exists an alleged indebtedness of about *eight hundred million dollars* for equipment and other capital expenditures made by the federal government and charged by it to the railroad companies; that they are expected in some way to reimburse the federal government for those expenditures, without discount thereof due to war time costs, and whether or not the expenditures had the approval of the railroad companies?

Does he know the magnitude of the demands, constantly, year after year, pressing upon railroad companies for what are called "capital requirements?" A railroad is never completed. A farmer compelled by circumstances to run his farm year after year without fertilizer, would be like a railroad compelled to run without new capital. The bigger the farm is, the more the money requirements for fertilizer. The bigger the railroad system, the more the money requirements for capital expenditures. It is a generally recognized fact that the railroads of the country, comprising over 200,000 miles, need about a *billion dollars* a year in new capital. I mean for purposes other than expenses,—for new equipment, for terminal facilities, for new stations and tracks and other improvements. The railroad industry is the greatest purchaser in the United States of iron and steel, and those industries, with their vast number of employes, are largely dependent for their prosperity upon the prosperity of the railroads. Agriculture is the only industry in the United States which is greater than the railroad industry.

New capital is never provided directly by freight or passenger earnings. It comes, if it comes at all, by voluntary investments in the securities which the company from time to time is able to offer. There is never a hope that the earnings allowed by law will be sufficient to provide the additional capital itself. But such earnings must make certain that the interest or dividends thereon will be forthcoming,—or the additional capital will not be furnished.

Does the average man know that under present railroad conditions, with their dire possibilities if not prospects, little, if any, additional money can be acquired from investors for such capital expenditures? Is there any one here who, under present railroad conditions, would invest his savings in outstanding railroad bonds or stocks, or in a new issue of such securities at a substantial discount?

You can read in *World's Work* for June that a carefully compiled index of railroad bond values shows that since the Adamson Law was passed, the highest grade railroad bonds have fallen in market value over fifteen points,—equivalent to a loss of three years of interest.

There are more than *seventeen billion dollars* in stocks and bonds of American railroad companies in the hands of the public,—owned by insurance companies, savings banks, guardians, trustees and by

hundreds of thousands of individual investors, representing every trade and calling. The once more or less prevalent idea that the railroads are owned by a few great financiers, is of course very erroneous. In the short period I have just mentioned, the market value of railroad stocks and bonds has declined over *five billion dollars*.

Is it any wonder that investors are buying other classes of stocks and bonds, which have shown an advance or a substantially less decline in the same war period.

You have in mind, no doubt, that in a recent message to Congress, President Wilson has announced an intention to deliver the railroads back to the companies at the end of the present calendar year, relying upon Congress to pass such legislation in the meantime as the facts demand.

The present freight rates are about 25% higher, on the average, and the present passenger fares about 50% higher, than the pre-war rates, that is to say, the rates which had legal sanction before the government took possession of the railroads on or about January first, 1918. As I have stated, those increases in rates mean a sum of *a billion dollars per annum*, or thereabouts; and those rates as so increased are still inadequate, to an enormous extent. They are lawful only because they were authorized to be made by the war measure enacted by Congress. They were put into effect by war time decrees of the Director General of Railroads, under the general authority conferred by the war measure. Your attention has doubtless been called to the decision of the United States Supreme Court rendered this month holding that because of the war measure such railroad rates are paramount to intrastate rates fixed by state authorities. They are not now sanctioned by any other Act of Congress, nor by any order of the Interstate Commerce Commission, nor by any state statute, nor by the order of any state commission.

I believe therefore that you will agree with me in this legal proposition. If, either by presidential proclamation or by the lapse of the twenty-one months after peace is declared, mentioned in the war measure, the railroads are returned to the railroad companies without legislation by Congress or action by the Interstate Commerce Commission legalizing the continuance by the railroad companies of the present governmental installed rates, or otherwise fixing rates, then, by operation of law, the pre-war rates,—I mean the substantially lower interstate and intrastate rates which were in force when the railroads were taken over by the government a year and a half ago,—will become controlling,—beginning on the day the railroad companies take control of operations. Mind you, I say this will result in the absence of legislation by Congress or action by the Interstate Commerce Commission.

Even with the exercise by Congress or by the Interstate Commerce

Commission of the full measure of their respective powers over railroad rates, there will remain another legal question. After Congress has exercised its full power, in times of peace, what power over intra-state rates will still remain in the several states? There is not time to talk about that.

Now I venture to make a prophecy. There are few, if any, railroad companies in the land that will be able to avoid receiverships for a period of one year after governmental control ceases, if Congress and the Interstate Commerce Commission leave the companies to operate on the pre-war rates. Six months would finish many. It is doubtful if even the Pennsylvania Railroad Company could long avoid a receivership, operating on the pre-war rates. For the year 1918, the Pennsylvania system, under governmental installed expenses and rates, showed net income of 43 million dollars less than the average annual net income of that system for the three years prior to 1918, and showed a deficit after charges of two million dollars. In the first three months of 1919, its deficit over charges was nearly seven million dollars. It would not be wild prophecy to say that many railroads will go to receivers within a year if the present governmental installed rates are not increased. One must be a finer mathematician or more optimistic than I am to see how the railroads under resumed control by the railroad companies, with their hands tied by federal and state laws and by labor organizations, will be able to overcome the present deficit of two million dollars a day, accruing on the present governmental installed rates.

Receiverships of railroads may directly benefit a few lawyers, but they are bad for the financial and business world generally, and bad for nearly every class of citizens,—manufacturers, farmers, laborers. I would enlarge upon that statement if time allowed.

Under the circumstances what will Congress do? In particular, what will it do on the subject of maintaining adequate freight and passenger rates upon the termination of governmental control? And when will it do it?

It is a question of courage. No timid action will suffice.

Will its members have the courage to deal frankly with the fact that a substantial reduction of operating expenses is impossible, and that even the existing tariffs do not provide sufficient revenue therefor? Will they face the fact that the railroads have been laden with burdens beyond their ability to bear on the pre-war rates? Will they have the courage to increase the existing rates to a point where the existing intolerable daily deficit will disappear and the required new capital be furnished? Will they delay the bold and forward and comprehensive action that is needed, in the hope of letting the responsibility rest on others? Will they "pass the buck,"—to the Interstate Commerce Commission, for instance? Perhaps you will

recall the result of pre-war efforts by the railroad companies to obtain rate relief from the Interstate Commerce Commission. There is no time to talk about that here.

It is a question of courage.

The need of increased revenue is immediate and cannot await the solution of other phases of the railroad problem, nor the adoption of any plan predicated on physical valuation.

I venture to add a few words as to strikes,—not strikes by employes or private industrial concerns, but strikes by men engaged in a public service, by employes of railroads, the greatest public utility.

Is there hope that the members of Congress will have courage at the same time they deal with railroad rates to deal also with the subject of railroad wages? Will they have the courage to oppose the present disposition of railroad labor organizations to retain the right to paralyze a great public service, and incidentally the industries of the country, as a means of forcing higher and higher wages? It is a question of courage. Railroad companies are not allowed to strike or higher rates.

Is there anything wrong with the proposition that as the government is to continue to limit and control the *revenue* of railroads it should also take steps to control effectively the *expenses* of railroads in matters beyond their control? Why should there not be a fairly constituted governmental commission to adjust wages with reference to rates? Is it not time that a strike by railroad employes be placed in the same category with a strike by soldiers? Even after the present governmental operation ends, the government and the railroad companies will really be jointly engaged in the great public undertaking of moving the traffic of the country, and not only railroad companies but every person who engages in that public service should be under governmental control.

There is surely a limit beyond which the expenses of operating the railroads of the country cannot go without checking industrial activity. The traffic of the country cannot forever bear the successive increases of freight rates with successive increases of wages would necessarily force. That is a truth upon the realization of which depends in no small degree the future prosperity of the country.

It does not take any courage for a member of Congress to vote for such a measure as the Adamson law, nor to vote to give the proposed increased power over railroads to the Interstate Commerce Commission, nor much courage to vote for the proposed measure for the federal incorporation of all railroads even though it would take away the power of forty-eight state commissions over railroad rates.

But it does take courage to say "Aye" or to hold up the hand to be counted in favor of a law giving railroad companies any kind of substantial relief.

It may or may not be wise, as proposed by some, for Congress to compel the consolidation of all railroads of the country into a few large systems. It seems clear that if that should be determined to be the wise course, it would take years to accomplish the enormous task. And unless existing rates, at least, to say nothing of higher rates, are made lawful in the meantime, or unless, by some method I know not of, wages of railroad employes are brought back to the pre-war basis, general bankruptcy of railroad companies is certain.

The alternative,—the only alternative,—for favorable legislation by Congress on the subject of rates, to have effect when the railroad companies resume control, the only alternative if disaster would be avoided, is the continued operation of the railroads by the government, and either an increase of the present rates or the meeting of the enormous deficit by general taxation. The need of increased revenue is immediate. It will bear delay only so long as the railroads are operated by the government, with a bond pocket and a taxation pocket to reach for.



## PUBLIC UTILITIES.

A. H. RYALL, ESCANABA, MICHIGAN.

There is a certain spirit of perversity about human nature which leads it to treat with neglect and frequently with injustice those things which have contributed most to the happiness of the race. This observation is so trite and I think its applicability to this subject is so apparent, that mention of it would hardly be justified at this time were it not for the fact that these remarks are addressed to lawyers and relate to the law, and since law is a rule of human conduct, any law or any discussion of the law which does not take into consideration the outstanding traits of human nature is certain to be superficial.

It was a gala day in the history of the earth when man found that he possessed within himself the power to lift his body and transfer it from one place to place, but how commonplace that has become in contrast with the use, successively, of the chariot, the stage coach, the ship on the sea, the railroad, the automobile, and finally the hydro-plane rising like an eagle and in a few hours crossing the ocean, over which no man had ever gone, even in a ship, until less than five centuries ago.

It was a great day in the history of the race when the first man heard beating on his ears the song of the birds, and it is little wonder that Morse asked "What hath God wrought" when within the memory of man now living, he sent his first telegram over a short line from Washington to Baltimore, but how ordinary are both of these in contrast with the ordinary telephone and the wireless telegraph, and especially when contrasted with the recent experience of our Secretary of the Navy conversing by wireless telephone with the President, who was then several hundred miles at sea.

It was an outstanding event that first time when after the sun had lost itself in the west and the chill of the evening had made itself felt on the flesh of man, he succeeded in recalling the warmth and light of day by producing a flame, but how primitive was that compared with our own ability to turn on automatically the gas range, the gas light, the hot water heater, or with the ease with which we turn a switch and bring into service the innumerable uses to which electricity is put.

It was considered worthy of record when Moses struck the rock

and caused the water to run therefrom, and the psalmist gave solemn thanks because his shepherd led him beside the still water, for thereby his soul was restored, but today we refuse to be led to water at all, and a toddling child without the intervention of Aaron's rod can bring into play an inexhaustible supply of water, all of which costs on an average of but a few cents for each thousand gallons, and as inconsistent as it may seem, we will at the same time walk or ride a considerable distance to some thirst emporium and there pay more, exclusive of war tax, for a small quantity of liquid than for the thousands of gallons of water, and the taste of this liquid we immediately try to remove by the use of this almost free water which every municipality of any size now considers itself bound to furnish to its inhabitants.

Lawyers are not an imaginative class, for they have to deal too much with cold and frequently very distressing facts, but it requires no great exercise of fancy to imagine what would happen to any community should the nation as a whole find itself some morning with its railroads, its street cars, and inter-urban lines out of operation, its gas and electric plants shut down, its telephone and telegraph lines inoperative, and the fires drawn from under the boilers in its waterworks plant. No shell stricken boy lying in the trenches of France was ever more truly paralyzed than our entire social and industrial fabric would be under such circumstances. Or, if your imagination is inadequate, ask anyone who was in San Francisco after the earthquake when all utilities were out of commission, or talk with any one back from the war stricken district of Europe where due to the stress of ordinary military activities just such conditions have arisen.

A consideration of these things is bound to bring a realizing sense not only of the importance of these instrumentalities, but also of the equally important fact that they carry within themselves no guarantee of continuance. Still like those who were loud in proclaiming that there never would be another great war, there are those who preach the doctrine that you can continue to treat with injustice these essential instrumentalities, and still have their beneficial services always at hand.

And this is true in spite of the fact that the railroads are today being supported out of the public treasury to the estimated amount for this year of \$750,000,000, and to the actual extent last year of \$300,000,000, and more than 10% of the street car lines in this country are in the hands of receivers.

All of this is nearly a platitude and I have made it so deliberately because in my judgment the whole public utility problem today arises from a failure to recognize a few simple but fundamental principles and that in nearly every case where difficulty has arisen in connec-

tion with these utilities, those who are responsible for the condition have had to admit that the claims and demands of the utilities were just and well founded, but have not been recognized because of some more or less sufficient reason which was in effect an evasion of and not an answer to the real problem.

I think it can be taken as granted that utilities are mere business concerns, and cannot long operate without profit; that money will not knowingly go into a business which is not thought to be profitable, and in view of these admitted facts it seems to me that the courts, commissions and legislatures have placed the so-called reasonable return to which they admit the utility is entitled on a level which is too low to make the business attractive to capital, and have likewise neglected to guarantee even the low return which they call reasonable.

I think it is universally recognized among lawyers that no man, no matter how upright or able he may be, should be the judge in his own case, but nevertheless to the extent that legislative and administrative bodies are directly interested either politically or otherwise in the rates fixed by them, they are sitting in judgment in matters in which they are vitally interested, and for that reason these legislative and administrative bodies should be placed in a position as nearly as possible to that of the judiciary.

Of course it is impossible to take anything of a public nature entirely out of the realm of politics, because politics is simply another name for public business. In my judgment the Commissions have somewhere nearly approached the desired independent position and are a vast improvement in almost every way over the old methods. On the whole they have attempted to really investigate the situations presented to them, and to work out methods of procedure which would be valuable in assisting them in meeting the desired information. They have averaged up with integrity and ability with our courts and have applied themselves diligently to the serious problems presented. Aside from the difficulties inherent in the whole scheme of commission regulation, it is hard to see how any different kind of mechanism can be devised and since that is the fact, and that they constitute the best machinery with which we can work out these problems it seems to me that the criticism if anything is more properly directed at the manner in which the instrumentality is used, than at the institution itself, and in this connection it is desirable to consider the relative legal rights of the utility and the public with reference to rates.

In the first instance, it is the right of the utility to fix its own rates in the absence of contracts governing these rates or of regulation by the proper legislative or administrative body. If the utility fixes

a rate it must not be unreasonably discriminatory nor can it be extortionate. (Madison Gas Case, 128 Wis., 249).

It will be noted that there is a radical difference between the restrictions upon fixing of rates by the utility and those which govern the legislative or administrative body in fixing rates. When the legislature sees fit to exercise its sovereign power of regulating the rates of public utilities, it is subject only to the restriction that the rates so fixed must not be confiscatory,—that is—so low as to deprive the utility of its property without a reasonable return. If the rate fixed by the utility in the absence of contractual or legislative regulation is attacked, it then becomes a judiciary question, but the court cannot fix the rate. (St. Paul Book Co. vs. St. Paul Gas Light Co., 130 Minn., 171.) All the court can do is to declare the rate to be extortionate and set it aside, and let the utility fix another which is reasonable. As has been recently decided by the Supreme Court of this state in the Kalamazoo Gas case, (200 Mich., 146), the right to fix these rates lies inherently with the legislature, and that body may delegate or bargain away the right or rate regulation, but every presumption is against that claim. It is under this inherent authority that the legislatures of the several states have created the various public utility commissions.

The necessity for such agencies have been so generally apparent that these commissions now exist with rate regulating authority in nearly every state, Michigan being one of the last to create a Commission clothed with practically full authority on that subject, but when we come to analyze even superficially the conditions which have given rise to so much public agitation before these commissions on the subject of rate making, and which have really been the moving cause in bringing about their creation it seems almost incredible that there should have been such a frequent failure to diagnose the whole difficulty, that the public has been so gullible in accepting the leadership of political charlatans or that there would be such a lack of political courage on the part of public men to grasp and handle the situation with some degree of firmness instead of through a constant policy of evasion.

My point can perhaps be better stated through a categorical statement of propositions in this manner:

- 1st. Modern society requires for its existence and advancement, the presence of these utilities.
- 2nd. Money naturally flows into those channels where it is most secure and receives the highest return.
- 3rd. A withdrawal of financial support from any industry eventually reacts on the public through the abandonment or crippling of the industry.

It would seem that the answer almost suggests itself, and that the

first consideration in all of these cases should be the fixing of a basis of return which would serve to attract capital rather than to penalize it for having gone into an honorable and highly valuable business. With all due respect to all courts and commissions, I think that it was a serious economic mistake when they permitted themselves to hold that legislatures and other regulatory bodies might say to the man or woman whether widow or millionaire who happened to have their funds invested in the securities of public utilities that low returns, sometimes as low as 4 1-2% on the value of the property, was not confiscatory, especially when the investment was made under conditions which permitted a much larger return, and this is especially true in view of the now well established principle that the return is not based upon the money invested, but upon the value of the property, and that value is generally fixed either directly by the regulatory body and is frequently said to be less than the actual money invested.

Those industries prosper which offer the highest inducement to capital. No one has thought of reducing the automobile business to a four or five per cent, or even a seven per cent basis of return. Even Congress under the stress of war and the necessity of raising unheard of sums, fixes from 8 to 10 per cent as an amount which capital should receive before it was subject to an excess profit tax, and then take away only 35 per cent of the excess up to a net earning of 20 per cent.

Since the rate making body establishes the rate of return and bases it upon a value fixed by itself, there is practically nothing left to the utility to determine, excepting its operating expenses, and as those consist principally of labor and are in fact fixed by the various labor organizations, the whole process really develops into one of auditing and comparatively simple mathematics. It is true that there has been a great deal said and written on the subject of valuation, and there is some room for honest difference on that subject, but from a practical standpoint, and in specific cases, matters of difference arising from the valuation of these properties are not nearly as serious as is generally supposed. It is really quite surprising how nearly a number of appraisals of a property made by competent engineers will in the aggregate agree so far as the physical values are concerned. The other factors are a frequent source of dissension, but for the purposes of a rate case, there is no reason why the value cannot be determined in a comparatively short time, with sufficient accuracy to do justice to all the parties interested, and with no more difficulty than is involved in the ordinary process of placing a value on other property whether it be by a court or through negotiations between a buyer and seller. Nor is there very much real ground for criticism from the standpoint of operating expenses. There have been a great many tempests in a teapot over certain items which appear to be exorbitant such as the payment of what

seems to a large salary to some officer of the company. If such charges are proper they should be included in the rate. If they are not proper they should be eliminated, but whether proper or not they produce such a small effect upon the ultimate rate fastened upon the consumer that their effect is negligible, so that the net result of it all is simply a process of determining the necessary gross income of the company in order to pay operating expenses and produce the proper return, and then to erect a rate structure which properly distributes this gross income among the several consumers. The difficulty with the whole situation arises from the fact that in too many cases the rate regulatory body fixes a value as it sees fit, then determines the rate which it says is reasonable, then reduces the operating charges to a minimum, computes the total income and then refuses to follow the course of its own logic, and will not put into effect a rate which produces the income which it has determined to be necessary. No better example of the indefensible manner in which this subject is handled can be cited than the recent statement of Mr. Hines, Director General of Railroads, who frankly stated that the railroads were operating at an estimated deficit of \$750,000,000. for this year, but he did not dare to increase the rates because that would increase the cost of living. Personally I cannot see how it makes any difference whether this deficit is paid indirectly through the consumers of goods or directly through the tax payers, excepting that there would not be an identity of contribution as among the individuals in each class, but a privately owned utility has not recourse to the tax paying power and must obtain its revenue from its consumers.

The answer of course to all of this is exactly the same as has always been made to the same criticism aimed against any public body which has lacked the courage to apply what it knew to be the proper remedy for any condition with which it was confronted and which through timidity or fear of political reaction failed to do what in its mind was known to be the proper thing in view of the condition found to exist.

The solution for it is not to abolish the commission but to place upon these commissions men who have the courage of their convictions, and who have sufficient confidence both in their own integrity and in the ultimate fairness of the public to deal justly with both parties so they will act in these cases with the assurance that ultimately the public will recognize the wisdom of their judgments.

Quite in contrast with the timid attitude which I have mentioned is the recent statement attributed to Commissioner Nixon who was recently appointed a member of the first division of the New York Commission and who is quoted as saying that there would be no more receiverships of public utilities in his district; that the Commission

had the power not only to fix values and rates of returns, but also see to it that rates were established which produce such a just return.

It will be noted that no mention has been made of a subject which at least in the minds of the public is a necessary part of every discussion of public utilities, and that is "watered stock." This has been such a convenient blanket under which to hide and dodge responsibility, that it has obtained a place alongside of those claims made by both political parties alike when they charged everything that happened, from bad weather to crop failures, to the opposite party then in power, and likewise took credit to itself, if in power, for every blessing which came from above. The truth of the matter is that after a good many years of investigation and considerable research in an effort to find this supply of liquid both the courts and commissions have found in the great majority of cases, that they were following a mirage and that just as they were going to quench their thirst in the waters of this oasis it disappeared.

A few years ago the Interstate Commerce Commission started to value the railroads of the United States, and an appropriation of \$25,000,000, was made for that purpose.

With one or two exceptions the only tangible evidence that the public has yet received of the expenditure of this money is certain chalk marks on the station buildings of the various railroads, indicating that some one had been there and at least marked up everything that seemed to belong to the railroad company. However, I am informed that the valuation was completed on one of these railroads. The line was in one of the Southern States, and was supposed to be quite heavily over-capitalized. When the appraisal was completed and the results computed on an adding machine, and not by the street corner mathematician, it was found that the actual physical value of the property was in excess of the outstanding securities. This was so discouraging that with possibly a few exceptions concerning which the public has heard but little, the process of valuing the railroads is still going forward. It may be completed before it is necessary to take an entire new inventory.

Several years ago when the Pere Marquette Railroad was the subject of comment in practically every paper in Michigan, I had occasion to discuss the matter with one of the Commissioners, and he stated in the presence of myself and several other members of this bar, that he would doubtless be much more of a hero if he were to take the newspaper theory and say that the Pere Marquette was only worth \$50,000,000 but he knew from the advice and appraisals of engineers employed by the Commission, that a fair valuation of the property was much nearer \$75,000,000 and that the quantity of water in the stock and other securities even in the Pere Marquette Railroad was greatly over-estimated.

The truth of the matter is that the whole question of water stock has become academic so far as rates are concerned, because the Commissions pay but very little attention to anything excepting the value of the property.

At the present time, there is an almost universal increase in the value of residence property throughout the United States. You can go from city to city and almost the same situation will be found to exist. Homes are, for the first time in many years, selling for more than they cost, and naturally rents have likewise been very materially advanced and put on the basis of present day values. There is hardly a family but that is not directly or indirectly affected by this. There is some complaint,—there always is when rents are raised,—but nobody seriously questions the right of the landlord to either sell his house at the advanced price or to obtain a return on its present value. Still I do not know of a public utility that has had the courage to ask its property to be reappraised on its present value, taking as the basis war prices of labor and material and then to have a rate based on that value. The best that any Commission has done to my knowledge is to use an average value running back a period of from five to ten years.

Still what valid reason exists for depriving this class of property the increases in value due to natural economic laws?

To conclude, the whole matter rests with the public and their representatives, the Commissions. If the Commissions show wisdom and courage and see to it that capital honestly invested receives a fair return so as to attract new capital, the public will continue to enjoy the unspeakable advantages which come to us in our every day life from those industries which we call public utilities. If, on the other hand, the Commissions fail to function as the Interstate Commerce Commission did when confronted with the problems which arose just preceding and during the war, all our public utilities will by virtue of the inexorable forces of economic law fall into the same chaos as has characterized the railroad situation for the past decade. The Commissions have the power and the machinery in their hands. It is simply a question of how wisely they use it. Let us hope that they rise to the full dignity of their great responsibility.

## THE AMERICAN BAR ASSOCIATION.

HON. GEORGE T. PAGE, ILLINOIS, PRESIDENT AMERICAN  
BAR ASSOCIATION.

The Biblical story of the creation of the World would be of little interest unaccompanied by the story of a perfect and complete organization of the world forces. The story of the creation is tersely told:

"In the beginning God created Heaven and earth. The earth was without form and void. Darkness was upon the face of the deep."

Then follows the story of the organization. The elements were separated and each marshaled to its place, so that light and darkness, Sun and Moon, day and night, land and water, and the Heavens above the earth had their places. The earth was made to bring forth grass, and trees that bore fruit, and herbs yielding seed.

Whales and other fishes were made in the water; birds and other fowl in the air; and cattle and other animals upon the land.

Then came intellectual man and he was given dominion over all of the fishes of the sea, the fowls of the air and the animals upon the land.

With man and woman came the Family, and the world became an organized and going concern, with man as the presiding and directing genus over it all. Ever since then everything of consequence has been accomplished in the world through organization and the combination of effort.

In the Family will be found the basic elements of all the social relations of men. The numerical increase of men brought into relation with one another by a development of those instruments demanded by, and applied to, the uses of life where large numbers of men have either casual or constant relations with one another present only subdivisions and variations of those relations found in the Family elements.

In Family life its members learn to serve and to rule, and they learn loving service and kindly rule, measured only by the necessity for direction or protection; or they learn the harsher service of the slave and the brutal rule over him by his master, not for the good of the subject, but for the selfish purposes of the master only.

In society and government men do no more than to rule or serve, and the success and happiness of the people under any government depends wholly upon the human characteristics alike of those who

serve and those who rule. We too often forget that government is only the organization of the forces within man, and that the greatest good must come to humanity through the bringing into co-operation and common effort the best that is in many men.

Organization in family and society, and in the State, has been the means of great accomplishment since the creation of the world, and men for the most part have been able to keep the balance between anarchy and chaos on the one hand and tyranny on the other by their innate love of liberty, freedom and justice, and the intuitive knowledge of all intelligent men that neither liberty, freedom nor justice can be found in that government which disregards the rights of the least within its rule. How many millions of organizations there are in the world I do not know, but Secretary of the Interior Lane recently stated that there are 864,000 different organizations of one sort and another in our own United States. I hope he did not miss any in the count. This makes nearly one organization for each 100 people, men, women and children, in the United States, which indicates that there are already a very considerable portion of our people who believe in the efficacy of organization.

The subject of my talk to you is, "The American Bar Association."

First. I want to talk to you about the conditions which were influential in bringing about the organization of the American Bar Association, and the purposes for which it was organized.

Second. Some of the work undertaken and accomplished by the Association in the forty years of its busy life. That which has been undertaken, and the actual accomplishments, have been so great that it will be impossible to touch upon more than a small portion of the whole.

Third. The interest which the lawyers of America have in the Association, not only because the work ahead of us to be done is vital to the life of the Nation, but also because much that must be done can only be done by the lawyers of the country co-operating in a strong, concerted, organized effort.

## I.

### *The Origin of the American Bar Association.*

In 1878 fourteen men, almost every one of whom then had a national reputation, wrote a letter in which it was said in part.

"It is proposed to have an informal meeting at Saratoga, N. Y., Wednesday morning, August 21, 1878, to consider the feasibility and expediency of forming an American Bar Association."

"A body of delegates representing the profession in all parts

of the country, which should meet annually for a comparison of views and friendly intercourse might be not only a pleasant thing for those taking part in it; but of great service in helping to assimilate the laws of the different states, in extending the benefits of true reforms, and in publishing the failures of unsuccessful experiments in legislation."

Seventy-five men only attended. While Lyman Trumbull signed the call, yet no one was present from Illinois. Neither was Kansas represented.

In 1830 the population of the United States was only 12,000,000, and it had grown to nearly 50,000,000 in 1878. The center of population had traveled west into Ohio. Thirty-eight states were then in the Union. Each with its own constitution, its own body of fast multiplying laws, and each with its own courts interpreting and applying those laws. Commerce had had a vast growth and life, in all its phases had become very complicated.

There was no common head to which the unskilled legislators of the many states could go for advice or assistance. Upon the same subjects adjoining states often had laws that were widely different; many ignorant and foolish experiments were made in legislation. Reporting and digesting were often poorly done, so that precedents were not always easy to find or follow. There was much lack of uniformity and much conflict between decisions from courts of equal dignity. All this was further complicated by the fact that litigation had multiplied so fast that the courts were in many cases far behind with their work, and the Reporting and Digesting were in many states still further behind.

It readily can be seen that there was great need for "Service in helping to assimilate the laws of the different States"; for help to "Extend the benefits of true reforms"; and for some means to, "Publish the failure of unsuccessful experiments in legislation."

When the constitution of the American Bar Association was written the stated purposes were simple, but very comprehensive.

"Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar."

A study of this article of the Constitution will show that the writers of it had a broad vision of the necessities presented by the conditions of the times and a keen appreciation of the dignity, power and duty attaching to one who undertook the profession and practice of the law.

From the small beginning the membership has grown to exceed ten thousand, and it is hoped that it will continue to grow and its influence be extended until every lawyer in the Nation will owe it allegiance and give it support.

Many addresses have been delivered and many discussions held at Annual Meetings of the Association, and each year the annual address has been made by someone of very conspicuous ability. The range of subjects covered has been very wide and in the published reports of the Association work, which have been given to its members every year, may be found a literature of great interest and value, showing a great wealth of information much of which cannot be found elsewhere.

In 1879 Edward J. Phelps wrote of John Marshall, and Cortlandt Parker of Alexander Hamilton and William Patterson in 1880.

In 1881 Clarkson N. Potter wrote of Roger Brooke Taney.

In 1883 John W. Stevenson wrote of James Madison.

John F. Dillon wrote of the American Institutions and Laws in 1884, and in 1888 Governor Hoadly wrote of Codification.

In 1889 Judge Baldwin, who more than any one else had to do with the organization of the Association, wrote of the Centenary of Modern Government.

James C. Carter, in 1890, dealt with the Ideals and the Actual in the Law.

In 1892 J. Randolph Tucker wrote of the American Constitutions and the British Institutions.

In 1894 Moorefield Storey wrote on the American Legislature.

And in 1895 William Howard Taft wrote on Recent Criticisms of the Federal Judiciary.

The Lord Chief Justice of England came over in 1896 and read a paper on International Law and Arbitration.

In 1898 Joseph Choate wrote of Trial by Jury.

Geo. R. Peck, in 1900, wrote on the March of the Constitution.

Senator Lindsay, in 1899, and John Carlisle, in 1902, each dealt with the power of the United States to Acquire and Govern Territory.

The Louisiana Purchase, Its Influence and Development under American Rule, was made the subject of a paper by Amos M. Thayer, in 1904.

Hemenway wrote of the American Lawyer, in 1905, and Alton B. Parker of The Congestion of Law, in 1906.

The British Ambassador, James Bryce, in 1907, wrote of the Influences of National Character and Historical Environment on the Development of the Common Good.

In 1910 The Lawyer and the Community was the theme of a paper by Woodrow Wilson.

Frank B. Kellogg wrote on New Nationalism in 1912.

And the Lord High Chancellor of Great Britain, in 1913, wrote of *A Higher Nationality and A Study in Law and Ethics*.

Elihu Root dealt with *The Layman's Criticism of the Lawyer* in 1914.

In 1918 at Cleveland, Mr. Hampton L. Carson of Philadelphia read a paper on "Heralds of the World Democracy," and James M. Beck also read a paper on "The Higher Law".

The foregoing are not by any means all of the great addresses delivered, or papers read, before the American Bar Association. There are many others upon a greater variety of subjects not here mentioned. The American Bar Association has not, like Dr. Elliott of Harvard, produced a five foot book-shelf of classics, twelve feet long, but it has produced a large number of classics, not only pertaining to legal lore, but also to general literature

When Mr. Alfred Mennenway, in 1905, wrote of the American Lawyer there were in the United States more than 114,000 lawyers and it is said now that there are 132,000. No one, either lawyer or layman, can read Mr. Hemenway's address without gaining a liberal education as to what many lawyers are, and as to what all lawyers ought to be. If one will but think for a moment of the vast magnitude and importance of the Courts that have their sittings in every hamlet, village, town, city, county and state in the Nation, and then read one sentence quoted by Mr. Hemenway from an Opinion by Mr. Justice Miller, he will see how intimately the life of every lawyer is bound up with the life and fate of many of the most important affairs going on everywhere in human society.

"No civilized nation of modern times has been without a class of men intimately connected with the Courts and with the administration of justice, called variously attorneys, counselors, etc., \* \* \*. They are as essential to the successful working of the Courts as perhaps the Judges themselves, since no instance is known of a Court of Law without a Bar."

He points out that,

"Customary law grows with the growth of society. Judge-made law keeps step with invention. The reports are, in truth the chronicles of the time. The business, the crime, the habits of life of each generation are recorded in their pages. In them we trace our growth. They are full of human nature, not always at its best, but often in its abnormal development. The law is never at rest. It is in constant development."

Everyone who reads the address must be moved by it to do greater things, to have higher purposes, and in every way to strive to show

forth the best that is in him. I commend the reading of it to every lawyer, old and young. Each will find it well worth his while.

In 1910 Woodrow Wilson, then President of Harvard College and now President of the United States, at the Annual Meeting in Chattanooga, discoursed on, "A Lawyer in the Community". In some respects, I think his title might better have read the, "Corporation and the Lawyer in the Community". A large part of the paper was devoted to drawing with consummate skill a picture of corporate influence in the community, and upon those lawyers that corporations call into their service. The whole paper is worthy of the most careful study. It shows that the writer had the keenest insight into community affairs as affected by modern business methods and instruments, and discerned the narrowing effect upon the lives of many great lawyers.

He said:

"I am simply trying to analyze the existing constitution of business in blunt words of truth, without animus or passion of any kind, and with a single, clear purpose.

That purpose is to recall you to the service of the nation as a whole, from which you have been drifting away; to remind you that, no matter what the exactions of modern legal business, no matter what or how great the necessity for specialization in your practice of the law, you are not the servants of special interests, the mere expert counsellors of this, that or the other group of business men; but guardians of the general peace, the guides of those who seek to realize by some best accommodation the rights of men."

And again he said:

"We are upon the eve, gentlemen, of a great reconstruction. It calls for creative statesmanship as no age has done since that great age in which we set up the government under which we live, that government which was the admiration of the world until it suffered wrongs to grow up under it which have made many of our compatriots question the freedom of our institutions and preach revolution against them. I do not fear revolution. I do not fear it even if it comes. I have unshaken faith in the power of America to keep its self-possession. If revolution comes, it will come in peaceful guise, as it came when we put aside the crude government of the Confederation and created the great federal state which governed individuals, not corporations, and which has been these hundred and thirty years our vehicle of progress. And it need not come. I do not believe

for a moment that it will come. Some radical changes we must make in our law and practice. Some reconstructions we must push forward which a new age and new circumstances impose upon us. But we can do it all in calm and sober fashion, like statesmen and patriots. Let us do it symmetrical, well proportioned, solid, perfect. Let no further generation have cause to accuse us of having stood aloof, indifferent, half hostile, or of having impeded the realization of right. Let us make sure that liberty shall never repudiate us as its friends and guides. We are the servants of society, the bond-servants of justice."

Reading this last prophecy, I sometimes wonder how much of the real truth he actually foresaw.

In 1914 Mr. Elihu Root, in his paper on *The Layman's Criticism of the Lawyer*, drew some wonderful pictures, both of the law and the lawyer, as seen from various angles. He deals with unwise legislation and points out many measures which might well be adopted for the betterment of conditions in the administration and practice of the law. Among the many pertinent and instructive things which he said is this:

"Sometime we shall realize that salvation does not come by statute; that prompt and effective administration of justice must rest upon stability and certainty of the law; that over-legislation defeats its own purpose by the uncertainty and confusion and ineffectiveness which ensue; and that the proper function of the legislator is not to command or compel the people whom he serves, but is, on the one hand, to record the matured opinions and sense of justice of the community, and, on the other, to make these effective by the needful adaptation of the machinery of government."

At that same Chattanooga Meeting Charles W. Moores of Indianapolis read a paper on, "The Career of a Country Lawyer—Abraham Lincoln." I fear that outside of those who heard it delivered it has not been enough read, and yet it seems to me to be a wonderful contribution to the literature dealing with the life and services of the Great Emancipator. It is the story of a part of Lincoln's life mirrored before us largely by recorded incidents of his everyday work while he served his people as a Country Lawyer, and developed and grew to greatness almost unnoticed and unheralded by any deed that men call great.

As Moores wrote of Lincoln, so also there were addresses on John Marshall, Alexander Hamilton, Roger Brooke Taney, James Madison and others. These are all great names and their lives and their works should be studied by, and known to, every lawyer. I have no space

here to deal with these great addresses, except to quote a little that was said about the lawyer Edward J. Phelps, who delivered the oration on John Marshall. Lawyers, generally, know little of Phelps, and of his address upon John Marshall.

It is said that,

"He was one of the fourteen signers of the original call of the meeting at Saratoga in 1878, at which this Association was organized. He took a prominent part in its proceedings from the first, and in 1879 delivered the Annual Address. His subject was John Marshall, and it may be doubted if on the coming 'John Marshall Day', in 1901, the memory of that great Judge will receive from any hand a more graceful tribute than that Which was then paid by Mr. Phelps."

In 1903 Judge Colt of Rhode Island, a United States Circuit Judge for the first circuit, delivered an address upon Law and Reasonableness, which may be merely another way of saying, "Law and Sense". Someone is always saying, "That may be law, but it ain't sense."

In any government supported by the will of a free people, everything depends upon the confidence of the people and the wisdom of the Courts and their just administration of the laws. While it may be true that, "No rogue e'er felt the halter draw with good opinion of the law", and while it may not make very much difference what the rogue's opinion is if his punishment has been just, yet it makes all the difference in the world whether those who look upon his punishment are made to feel that it is just or unjust.

Judge Colt's paper shows how difficult it is for the law and the people to progress together.

"On the one hand, there is a body of legal rules which by nature are stable and enduring; on the other hand, there is a society with ever-changing social necessities and opinions. From the very nature of these conditions, which are permanent, there is the inevitable result that the old rules of law cease to conform to the new facts of life; that they are not adapted to the ever-varying views of society; and that consequently, they come, in part at least, to be regarded as narrow, unreasonable, and out of touch with progress and enlightened public sentiment."

"To keep the rules of positive law as nearly as possible abreast of social wants and public opinion, is the difficult problem which always has and always will confront progressive nations. That gulf can never be entirely bridged. A stationary body and a moving body cannot be kept together. We can only by unceasing effort narrow the chasm. Sometimes the spirit and

temper of society are far in advance of legal rules; at other times they nearly meet. \* \* \*

Such being the position of the law in its relation to progressive societies, what have the lawyers done to help relieve the situation? Where have they stood in this long struggle between an unreasonable past and a reasonable present; between a body of rigid legal rules and advancing civilization- \* \* \*

Have they failed to realize that the law is made for society, and not society for the law; and that it should be adapted, as far as possible, to meet the 'great, complex, ever-unfolding exigencies' of life and government?"

Everyone who reads the report of Judge Colt's able address will better understand much of the basis of many of the unjust and unreasonable criticisms of the law and will be better able to make an answer to all criticisms and objections.

"The Causes of Popular Dissatisfaction with the Administration of Justice" was the subject of an address by Roscoe Pound, then a resident of Lincoln, Nebraska. Mr. Pound commences his address with the assertion that:

"Dissatisfaction with the administration of justice is as old as law. Not to go outside of our own legal system, discontent has an ancient and unbroken pedigree."

Quoting from early writings, he says:

"The author of the apocryphal Mirror of Justices gives a list of 155 abuses in legal administration and names it as one of the chief abuses of the degenerate times in which he lived; that executions of Judges for corrupt or illegal decisions had ceased."

Professor Pound is hopeful of the future and with his confidence and skill he points out the difficulties, and then points the way to correction.

It is unnecessary to say to anyone who knows Roscoe Pound that that which he has written has been well done.

Too little is known by lawyers and the public generally of the Louisiana Purchase. Judge Thayer's description of the importance of the Louisiana Purchase does not in any sense, in my opinion, overstate the fact. He said:

"No other event in our national history, save the Revolutionary War or the great Civil War, rivals in importance the purchase of the Louisiana territory. It gave the United States the full con-

trol, from its source to its mouth, of that great national highway, the Mississippi River, it added to the public domain nearly nine hundred thousand square miles of productive territory, now inhabited by nearly fifteen millions of people; it caused the flags of France and Spain to be hauled down along our Western border; it made the Pacific Ocean, rather than the Mississippi River, the western boundary of this great republic, thereby insuring our western frontier against invasion by any foreign power, and it cleared the way for the onward march of our people and our free institutions to the Pacific Coast.

The Revolutionary War made us a free and independent nation; the Louisiana purchase made the United States the dominant power on the western hemisphere. The undisputed possession which we thereby acquired of the great region on the west bank of the Mississippi River may have inspired the American people with that sense of responsibility for the well-being of all nations on the western hemisphere and with that confidence in their strength which led them, within twenty years after the territory was acquired, to assume that position of guardianship over the South American republics which they have since maintained. Whether that feeling of confidence in their strength was justifiable when the Monroe Doctrine was declared, and whether the United States could have upheld it by force of arms at that early day against a strong European combination, we need not stop at this time to inquire."

Each of the forty Presidents of the American Bar Association who have preceded the writer of this paper delivered an Annual Address. Each dealt with some subject of interest to the profession, and also in addition thereto, until within the last three of four years when that duty was handed over to a Committee, noted the important changes in statutory law throughout the Country, so that anyone desiring to do so can, by taking the Annual Reports and following through the various Presidential Addresses, trace with great accuracy the important changes and growth in the statutory laws of the Nation. I think that anyone who will do this will be greatly surprised at the number of new matters which have been made the subject of legislation and at the changes of public attitude upon a great variety of questions as reflected in the legislative action of its representatives.

Laws governing the movements of the people upon land and sea are as old as civilization itself, but it appears now that there will be a demand for rules and regulations and laws governing navigation under the seas and the movements of people who are, literally, up in the air.

What some have termed, "The North Dakota Idea" has not yet been

dealt with by the American Bar Association, but that which has come to my notice concerning it is well calculated to make conservative people sit up and take notice and ponder, "Whither we are drifting".

There are in the Association books reported a large number of addresses not dignified by the publisher either as Presidential Addresses or Annual Addresses. I have not made reference to any of them, but it must not be inferred by any manner of means that they are not valuable contributions to the literature of our Association. They are, many of them, of very great excellence and importance.

Neither have I in any way touched upon the Committee Reports, which, as they have been made annually, are preserved in full. Many of them contain the last word upon the matter under consideration in them, and have been made by men who were the highest authority on these questions. For many reasons, and particularly because the action taken by the Association is generally brought about because of recommendations in the Committee Reports bearing upon the subject, if you would become at all conversant with the real work done by the American Bar Association you must know the Reports of its Committees.

I cannot here forbear to quote just a little from Hampton L. Carson's paper, read in 1918, and if what I quote stirs you as it has me, you will await eagerly for the coming of your Report, so that you may read the whole address, and when you do I am sure that you will have a higher appreciation of our Constitution and our Courts, and everyone will have a clearer vision of his opportunity, his power and his duty, not only as a lawyer, but as a man and as a part of the social fabric where he lives and loves, and works.

"As a political *intelligence* served by appropriate organs our Constitution should be studied in the spirit in which Copernicus divined his theory of the planetary system. In truth, so far as the thoughts of mortals can approach the Divine mind, the architecture of our Constitution resembles that of the heavens, where states circle like planets about the Federal Constitution as a Central Sun. The grandest conception of the Constitution was the establishment of an independent tribunal with authority to settle differences between contending sovereignties without the spilling of a drop of blood, a thought which glorifies the Supreme Court of the United States. It embodies the climax of skill in the adjustment of a balance between centripetal and centrifugal forces. It will furnish a model to the nations for the peaceful adjustment of world-wide affairs. This will involve a consideration of those conditions of liberty which experience has shown to be of value in the organization of regulated freedom. Every code, system, league, constitution, charter, statute

and treaty which has in the past contributed to the general welfare of a people or nation will be brought under scrutiny and subjected to analysis. The political and ethical philosophies of all time will be laid under contribution; results will be tabulated; comparisons will be made; creeds will be re-stated; old principles will be reapplied; jurisdictions will be extended; partitions of sovereignty will be attempted, and new delegations of power will be invited, based on wise and unselfish concessions to the general good. There will be devised means of centralizing world-wide authority, and methods of enforcing the will of an emancipated humanity. The majestic scale upon which this work will be planned will be unprecedented; the interests involved will be international as well as domestic and national. The problem will concern the architecture and the construction of a Fortress of Freedom, which while offering full room for the play of individualism, will serve as a buttress to the weakest against external and internal tyranny. There must be and there will be a House of Shelter against violence which will assure to human beings, wherever dwelling, the right to lead their own lives untouched by tyranny and unstained by blood."

## II.

### *Some of the Work Done by the Association.*

Had there been no constructive work of any kind, the literature which the American Bar Association has created through addresses, at its Annual Meetings, of its members and its guests, and the inspiration of the social features there enjoyed, would be more than sufficient to justify the existence and the continuance of the American Bar Association, but fortunately the fame of the American Bar Association does not have to rest upon those things alone. It has done, year by year, a great constructive work, and it has advanced the science of jurisprudence; it has promoted the administration of justice and the uniformity of legislation throughout the Union; it has upheld the honor of the profession of the law; and it has encouraged cordial intercourse among the members of the American Bar, thus keeping faith with the promises of its Constitution setting forth its purposes.

The whole life of the American Bar Association and all the work undertaken by it have been on the highest plane and have been actuated by loftiest motives and noblest purposes.

I have been in the Association for twenty years and no selfish or ignoble thing has marred the record of unbroken service in furtherance of the expressed constitutional purposes for which it was organized.

The science of jurisprudence necessarily must have been advanced

by the making and giving to the members of the Association and to the public, through all the great libraries of the Country where the Annual Reports may be found, the splendid literature portions of which I have commented upon above.

There has always been a Committee on Legal Education and Admissions to the Bar. For many years there has also been a Council on Legal Education, and both Committee and Council have labored unceasingly for a higher education among lawyers, and to make the requirements for admission to the bar more uniform throughout the States, and more difficult to pass. There have been some complaints though, recently, that on the matter of admissions in Illinois the Law Examiners have been over-educated and that examinations in some cases have been so difficult as to be unjust. If that complaint is in any sense justified, it is a matter that probably will soon be corrected.

In 1907 the Committee on Legal Education and Admissions to the Bar made a most exhaustive report, which gives not only the views of the Committee, but, also, that which has been said by those whose advice should not be lightly disregarded. The Report said:

"This Association may not safely disregard the opinion of Mr. Justice Brewer in 1905 when he declared:

'If our profession is to maintain its prominence, if it is going to continue the great profession, that which leads and directs the movements of society, a longer course of preparatory study must be required. A better education is the great need and the most important reform. That which I wish alone to emphasize is the need of securing in some way to everyone admitted to practice the benefit of a preparation therefor far surpassing that which most young lawyers now enjoy.'

It was said by Locke, that of the men we meet, nine parts often are what they are—good or bad, useful or not—by their education. That is emphatically true of the class to which we belong. Mr. Justice Brewer once said to this Association: "There is no place anywhere on the face of the earth for a cheap lawyer." The statement may well be changed so as to read: "There is no place anywhere on the face of the earth for an uneducated lawyer." That is what he meant, for he told us at the same time that a higher education was the great need of the profession. The uneducated lawyer is always a cheap lawyer, although in the end always dear both to his clients and to the public. A self-respecting profession must always be concerned as to the education of its members."

Another thing the American Bar Association has done was to fend off by a long and strenuous campaign that thing which would have

destroyed the integrity of our Courts, "The Recall of the Judges". When we reach the place where our Judges can be hurled from the bench by the popular clamor of the moment, we will find that our dearest liberties, won in the long revolutionary struggle and guaranteed to us by our National Constitution, have faded to a shadow.

In 1915 Mr. Charles Thaddeus Terry, President of the Commissioners on Uniform State Laws, addressed the Commissioners on "Uniformity—A Reciprocal Duty of the Law-makers and the Electorate." He dealt at length with the whole question of uniformity in State legislation, and incidentally with the work accomplished by the Commissioners.

He noted the following accomplished work of the Conference and in it found ground for confident hopes for the future:

"(a) Every state, territory, and federal possession has recognized, by appointment of commissioners to this body, either by special statutory authority or by general gubernatorial prerogative, the work of this organization.

(b) Forty-six states and the territory of Alaska and all federal possessions have adopted as a part of their statutory law the very first uniform act approved and recommended by this Conference.

(c) That thirty-two states, territories, federal districts and possessions have adopted the Warehouse Receipts Act, the second measure approved by the Conference in the order of time.

(d) That twelve states and the territory of Alaska have approved and adopted the Sales Act recommended by the Conference as its third measure in the order of time.

(e) That the succeeding acts approved and recommended by the Conference have been adopted by the states in varying numbers commensurate and proportionate to the length of time during which such acts have been in the category of statutes endorsed by the Conference, and the special character of the subject matters dealt with therein.

(f) That in twelve different instances, during the recent sessions of the legislatures, various of the uniform acts, promulgated by the Conference were adopted as laws by the states."

The work of the Commissioners on Uniform State Laws has not slackened since 1915. It has been brought down to date and all of its interesting phases are set out in the 1918 Report of the Association, where a complete tabulation may be found of the various acts approved and recommended by the Conference, and the action of the various jurisdictions taken upon them. It is quite impossible to give any accurate estimate of the great value of the work done and in course of preparation by the Commissioners on Uniform State Laws.

Very slight reflection will show that uniformity in those laws enacted to govern practically the same conditions is very desirable from every point of view. We are not a people riveted to one spot, but the opportunities for trade and commerce in many places and the facilities and ease with which traveling may be done, induce and permit thousands of people to pass in a night through many jurisdictions and take up the business or labors of his profession or calling hundreds of miles from home. It is not unusual, in fact it is the custom, both for corporations and individuals, to carry on vast undertakings with practically all of the States of the Union at one and the same time. Thousands of men are continually passing between the great cities of this Country every day and there is no reason why either individuals or business should be confronted with laws that are widely divergent in many cases.

There are in the 1918 Report twenty-eight laws listed as approved and recommended by the Conference. I can see no reason why they should not be all adopted in every jurisdiction. It would save much litigation and clear the way for prompt action by the Courts upon reasonable disputes and there is no reason why the people should be worried and fretted by foolish differences in the statutory laws.

I suppose that the greatest single thing that has been done by the American Bar Association, and that best reflects its lofty purposes and shows to the world its earnest purpose and desire that the members of the legal profession and the Courts of the land shall be efficient and the acts, both of the individuals and the Courts, shall reflect the highest integrity and keep and maintain justice pure and unsullied, is its Canons of Legal Ethics which have been printed in the Reports every year since their adoption in 1908, and otherwise widely circulated.

The Canons of Ethics require much, but not too much. They set out guide posts by which every lawyer may find his way through the devious avenues and ways that must necessarily be traveled in doing the difficult work and solving the complicated problems that fall to the lawyer's lot. Unless you are willing to raise your standards, unless you are willing to be controlled by a keener sense of your duty as a lawyer to your client and the Courts and the community in which you live, do not read the American Bar Association's Canons of Ethics, because if you do so while you have any ignoble purpose in your life, any narrow vision of the lawyer's duty, any disrespect for the Courts which you are pledged to uphold and support, you will learn that your life will have to undergo a revolution, and you will find that until that revolution is perfect, you are unfit to enjoy the high privilege of being called a lawyer.

## III.

*The Interest which the Lawyers of America have in the Association.*

There are many points of contact between a man and his government and between a man and his fellowmen, and in almost every one of them some law of the land enters into, and has more or less influence upon it. In most of the ordinary transactions of life a man knows, by reason of his own intelligence and education, the line of conduct necessary for him to follow to enjoy his liberties under the law; but the complications of business and the magnitude of many transactions make it necessary very often to proceed under the advice of counsel. In spite of the intelligence and education of men and in spite of the caution and advice of counsel, controversies arise between men that necessarily find their way into the courts and only reach an adjustment after, in many cases, much delay, much expense, and oftentimes bitterness of feeling, which is not always confined between disputants, but is often directed against the courts in charge of incompetency, unfairness, dishonesty and partiality. While much has been done to discourage unnecessary litigation, yet it is a fact that litigation has in many jurisdictions outgrown the capacity of the courts and in many instances it has not been possible to advise and set in motion new courts and new machinery fast enough to keep in hailing distance of the ever-advancing end of the court dockets.

There have been brought to my notice conditions in one State where its first Constitution has not yet reached its majority. In that State it is not possible to stop any case, where the amount involved is more than a few dollars, short of the Supreme Court. The result is that about nine hundred cases a year reach the Court, and it is some three thousand cases behind. The reporting and digesting are years behind the Court. This is probably an extreme case, but great delays, and oftentimes unnecessary ones, are met with almost everywhere. While in many cases it is impossible to reach an early termination of litigation, yet in a vast number of cases there are delays that are wholly unnecessary and that can be obviated by co-operation between lawyers and the courts and by better legislation.

We are continually telling the people that it is necessary, and that they must enjoy their liberties under the law. That is true, but it is also no less true that those immediately charged with the duty of making the laws and providing the courts should see to it that the laws are just and equitable, and that capable and efficient judges and courts in sufficient numbers are established, so that disputes may be disposed of promptly. The Nation may have the best constitution in the world; each State may have an ideal constitution of its own; the

laws of the State and Nation may be just, but if we do not have able, honest and impartial judges; if we do not have such courts and court machinery as will enable those judges to speedily determine the rights as between litigants, then will our splendid Constitutions avail us nothing; because, in all disputed matters a man touches his government through the courts, and if the courts are inadequate, dilatory or dishonest, they will lose the confidence of the people because the very purpose for which the government was set up has failed.

Now, it has been said, and doubtless is true, that a very large percentage of the law-makers of this country, both in the State Legislatures and in the Federal Congress, are lawyers. If it is true that the lawyers have the controlling influence in the administration of the affairs of the courts and also the making of the laws, then it can readily be seen how vast is the influence of the lawyers of America on many of the affairs of all the people. Is there not enough in this to make every lawyer realize and deeply feel the power that is in his hands and the responsibilities that are upon his shoulders and the opportunity he has to help work out the destinies of the people?

The reason the American Bar Association was organized in 1878 was that each of fourteen men assumed that an individual responsibility rested on him to join with others and do the work. It was because men assumed a like individual responsibility that your Bar Association was established twenty-nine years ago. It is the assumption by individuals of responsibility that originates every good and great work and that puts together every organization that is necessary to accomplish those things that are too big for individual effort.

Our people are thinking about the new conditions of life; are thinking about their relations to the government and the relations of one man to another with greater earnestness. Everybody is inquiring the whys and wherefores of things, and many of the things that men have done in the past which have gone unnoticed are going to fall under the closest scrutiny, and if they do not bear the test of genuineness, they will come in for their share of bitter condemnation. We are surrounded everywhere by revolutionary thought and we are actually in the midst of revolution, and many of the changes that are to come cannot be avoided; but how they shall come and what the results will be that come from them will depend very largely upon the question as to whether the courts of the country and those charged with the administration of the laws retain the confidence of the people. If that confidence is retained, it must be through the serious, untiring effort in a very large measure of the lawyers of America, who see to it that the liberties of the people are preserved through the prompt and wise action of the courts in awarding justice to every man. There cannot be for any man any higher duty or any more

patriotic service than that which the lawyers of the American Bar are called upon to do and to render.

If this service is not done by the lawyers of America, do not forget that it must go undone, because there is no other body of men with the experience, education or training that can do it successfully.

# FIVE TO FOUR DECISIONS

## OF THE

### UNITED STATES SUPREME COURT

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BY HON. FRED A. MAYNARD, OF GRAND RAPIDS.

Many years ago, while a student at the University of Michigan, I heard President Angell deliver one of his great addresses. It was entitled, "Alone or With the Majority." It made a profound impression. You will at once understand its purpose.

Since that day I have been interested in noting events in history, and history in the making, which were decided by one vote or came to pass by reason of a peculiar combination of circumstances. So much so, indeed, that I once said to a friend: "Sometimes when I retire I am going to write on this subject,—'Was it Accident or Fate?'" He replied: "Well, it may be interesting enough, but it will end in this:—Those who believe that everything that happens in this world is the result of Fate will answer Fate, and the others, who think that events are the result of accident, will answer Accident.

My friend's reply was so persuasive that I fear I shall never,—when leisure comes, if it ever does, use it in the manner named. However, I have thought that it might prove interesting, as preliminary to the subject announced, to refer to a few established facts in our political history which were decided by just one vote.

It is a peculiar, historical fact, but it is absolutely true, that one farmer's failing to vote determined that we should have a war in 1812. The farmer wanted to vote and attempted to do so, but he was detained by a pig that was caught in a fence in Rhode Island, and his vote was not cast. Here is the true tale of the pig and the War of 1812:

"An election was being held for members of the Legislature in Rhode Island. One thrifty Federalist farmer put off going to the polls until late in the afternoon, leaving himself just time to get there before they were closed. Just as he started he heard a pig squeal. He looked around and saw that the pig had its head rammed into an old worm fence, and anybody who knows anything about hogs knows that the big ones would eat the pig up if it was left in that predicament. Therefore the farmer stopped to get the pig out

and as a result when he did get to the polls they were closed and he lost his vote. A man running on the Democratic ticket was elected by one majority. He would not have been elected if the farmer had reached the polls in time to vote.

At the following session of the legislature a Democrat was elected to the United States Senate by one vote. In the United States Senate the vote deciding that we should war with England was carried by one vote. The Rhode Island senator so elected voted yes. It follows that the pig caught in the fence caused it all.

General Andrew Jackson defeated General John Servier for the major generalship of the Tennessee militia by one vote. Under Jackson's leadership we won at Horseshoe Bend and New Orleans. That one vote changed the current of events in this country for all time.

Edward Everett was defeated for governor of Massachusetts by one vote in the popular election.

Here is still another example of what one vote will do. It gave to us the great Thomas H. Benton—for thirty years a commanding figure in the Senate of the United States. On the convening of the Missouri first legislature, Mr. Barton, now forgotten, was unanimously elected one of the new state's senators. Then followed a deadlock for three weeks on the other senator. To break it the legislature allowed Barton to select his senatorial partner. He selected Benton, but he was so unpopular that it took three weeks to elect him, and then by just one majority. That one vote was cast by a sick member who was carried in on a stretcher and who died half an hour later. But that one vote launched Mr. Benton on his great career. Benton succeeded in keeping Missouri from passing an act of secession. If Missouri had seceded Kentucky would have done likewise. It again follows that the one vote cast by the dying Senator in the Missouri legislature saved the nation.

Kentucky furnishes another example of what one vote will do:—It came into the Union of States, as a Slave State, by the casting of one majority vote in the Constitutional Convention. Over this vote Henry Clay and Humphrey Marshall fought a duel. Had it not been for that one vote Kentucky would have come into the Union as a Free State. If it had, Missouri, largely settled by Kentuckians, would later have done likewise. In that event we would probably have had no war between the States. Again,—the 8 to 7 vote which made Mr. Hayes President of the United States.

There is a well-known but remarkable instance of how one book changes a life and then leads to other life-changing volumes. A little work entitled "The Bruised Reed," written by an old Puritan doctor, fell into the hands of Richard Baxter and led him to Christ

as his Saviour and to a great life of service in the ministry. Baxter then wrote "The Call to the Unconverted," which is still in circulation and doing good to millions of men. Philip Doddridge got hold of this book of Baxter's, and it led him into a broader knowledge, a richer faith and a deeper experience of the things of God. Then Doddridge wrote a book called "The Rise and Progress of Religion in the Soul," which book fell into the hands of William Wilberforce, and so impressed him that he wrote a book called "Practical Christianity." And this book, in turn, made its way far down into the sunny Isle of Wight and there thrilled the heart of Leigh Richmond. Richmond then wrote the "Dairyman's Daughter," which book has been translated into more than fifty languages of the earth, working wherever it goes an immeasurable influence for the extension of the Gospel. Still, again, this book of Wilberforce made its way into a secluded parish in Scotland, and its reading worked an epoch in the life of a young man who was afterward to thrill the world with his glorious ministry—the eloquent Thomas Chalmers. There it is, not a break in the chain: Baxter, Doddridge, Wilberforce, Richmond, Chalmers, and after these names another word needs to be added—eternity! For the influence of their works will never cease.

In the fifteenth century there was a German lad who had the euphonious name of Johann Gensfleisch. Translated into plain English, this means John Gooseflesh. It is said that John was one day playing near a pot of boiling dye, with which his father was preparing to color some skins. He had cut the letters of his name from the bark of a tree, and was spreading them out to form his name, when one of them accidentally fell into the pot of boiling dye. Quickly John plunged in his fingers to rescue the letter. Finding it very hot, he more quickly turned it loose. It fell upon one of the white skins which were waiting to be dyed, and when John lifted the block away he saw a beautiful purple "H" smiling up at him. That was the first letter ever printed on the continent of Europe. Whether he admired the marks on the skin or meditated ruefully upon the marks which his irate father might make upon his own skin because of the accident, we do not know. But we do know that this incident, or something else, started the young man to thinking. In the year 1450, we find a printing press working in Mainz, under the direction of Johann Gutenberg, who had changed his name from Gooseflesh, by availing himself of an old German law which permitted a child to take his mother's name instead of his father's, if he desired. His discovery of the art of printing revolutionized the world.

There are many illustrations of this influence of reading over life. The case of Martin Luther is an instance in point. The Protestant Reformation really began at Erfurt when Luther, rummaging through

the library there, ran across a dusty copy of the Scripture, opened it and read "The just shall live by faith."

Trifles unnoted by us may be links in the chain of some great purpose. In 1797, Wm. Godwin wrote "The Inquirer," a collection of revolutionary essays on morals and politics. This book influenced Thomas Malthus to write his "Essay on Population," published in 1798. Malthus' book suggested to Charles Darwin a point of view upon which he devoted many years of his life, resulting in 1859 in the publication of *The Origin of Species*, the most influential book of the nineteenth century, a book that has revolutionized all science. These were but three links of influence extending over sixty years.

These examples of the momentous results caused by one man's vote or act could be greatly increased, and in connection therewith mention could be made of fairly well established incidents of a seemingly trifling character, fraught with vast importance and leading to momentous and world-shaking events such as Bismark's famous telegram believed by many writers to have caused the Franco-Prussian War, the sneer of Frederick the Great that started the Seven Years War, the cackling of the geese that saved Rome, the spider's web of Robert Bruce and the last one just told by General Sukhomlinoff, former Russian Minister of War, who affirms that the greatest of wars, now happily ended, would not have taken place, at least would have been indefinitely postponed, had the late Czar said "Countermand" the mobilization instead of "Stop" the mobilization.

My brethren, these great world-shaking events originating from such apparent trifles suggest one of the mightiest of concepts: Accident or Fate? We have only to review our own lives to behold the working of one or the other of these greatest of words. Would not most of us admit that our present homes, our present relations, official, professional and domestic, are, so far as we are able to see, the result of chance or accident? I know, I think, what is passing in your minds. You are saying to yourselves,—what has all this to do with the law, the courts, or their decisions? I admit that you appear to be justified. I shall attempt, nevertheless, to show that from the beginning of our judicial history to the present hour, one man's appointment to the Bench, one man's vote, one man's obiter words have not only produced the most momentous events but have fixed the destiny of our Country for all future time. It will not be possible, in the time allowed me, to review, or even to refer to many cases. In a foot-note I name 45, and there are more, 5 to 4 decisions of the Supreme Court which some of you, at some time in your lives, may wish to examine, and you may, when you have done so, favor the remedy which I shall later suggest. I shall only briefly refer to a few of them, and I hope you will pardon me if I do not confine myself

strictly to the cases, but allow me to rove over the field at will, and mention facts and incidents which, in a general way, relate to the point which I desire to press home, with the hope that some day it may result in a change in our legal system which I think will prove of great good to our beloved country.

The truth is that a review of the decisions of the Supreme Court of the United States reveals an almost unbroken line of dissenting opinions on questions involving the construction of our Constitution. In the very first opinion published in the reports of its decisions appears the dissenting opinion of Mr. Justice Johnson, in which Mr. Justice Cushing concurred. The case is *State of Georgia vs. Brailsford et al.*, 2 Dallas, 415, decided in the year 1792. This case and *Ware vs. Hylton*, 3 Dallas, 199 (1796) involved the important principle that the Treaty of Peace made with Great Britain, like the Constitution, was in respect to matters embraced by its terms, the Supreme law of the land, and could not be restricted in its operation by State action or State laws. The irrepressible conflict between National and State sovereignty appears in these cases, and continues to this day. Who do you think was one of the attorneys who did his best to convince the Court that Congress had no power to make a treaty that could operate to annul a legislative act of a State, and thus destroy rights acquired under such an act? John Marshall, of Virginia. But Justice Iredell only was persuaded by his reasoning. John Marshall became Chief Justice of the United States on the 31st day of January 1801, at the age of 42. His first great constitutional decision was made in the year 1803,—*Marbury vs. Madison*, 1 Cranch 137. It was based on this statement of facts: In the December term, 1801, Charles Lee, Attorney General of the United States, moved for a vote to show cause why a mandamus should not issue addressed to Madison, then Secretary of State, commanding him to deliver a commission to Marbury, whom President Adams, before the expiration of his term, had nominated as a Justice of the Peace for the District of Columbia. The nomination had been confirmed by the Senate. A commission had been filled up, signed by President Adams and sealed with the seal of the United States, but had not been delivered to Marbury when Mr. Jefferson came into office. Acting on the idea that the appointment was incomplete and voidable so long as the commission remained undelivered, Jefferson countermanded its issue. The application made to the Supreme Court was for the exercise of its original jurisdiction under the terms of the Judiciary Act and the principal question was whether such a writ could issue from the Supreme Court under the grant of a jurisdiction by Congress in direct violation of the terms of the Constitution in distributing original and appellate authority. The Court held that delivery was not essential to the validity of

letters patent, and that the right of Marbury to his office was complete, and hence he was entitled to a remedy; but as Congress could not give original jurisdiction to the Supreme Court, in cases not authorized by the Constitution, his application for a mandamus must be denied.

The importance of this decision lies in the fact that it was the first authoritative announcement by the Supreme Court that it had the right, as well as the power, to declare null and void an act of Congress in violation of the Constitution. It declared that the Constitution was to be regarded as an absolute limit to legislative power, that Congress could not pretend to possess the omnipotence of Parliament. Apart from the interest which will always be taken by lawyers in this famous decision, as establishing a principle which lies at the foundation of our Constitutional jurisprudence, by which the judicial department, was placed upon an independent and elevated plane, and subjecting the ministerial and executive offices of the government to the control of the Courts in regard to the execution of a large part of their duties, there are certain dramatic features attached to it, and in it we have again an example of an individual contest,—Thomas Jefferson vs. John Marshall. As the new President and the new Chief Justice stood face to face upon the threshold of their power, each knew that the contest between them would end only with life. Marshall was a Federalist, so was John Adams, and Adams made Marshall Chief Justice to perpetuate the Federal principles of his administration. Jefferson, his successor, did not believe in Adams' principles, which had for their object the enlargement of the powers of the national government. In a word, Jefferson believed in restriction.

Jefferson and Marshall were great men but they were human. Marshall clearly shows his humanity in the instant case. In these days when so much attention is paid to sports of all kinds, we hear much of one side "Getting the jump," "get there first," etc. It is clear that Marshall knew of the advantage in so doing,—in popular slang, he wanted "to get" Jefferson before Jefferson "got him." So instead of at once denying the motion because of want of jurisdiction, Marshall proceeds by the obiter dictum route to tell Mr. Jefferson that he and his majority Congress must obey the Constitution and he, John Marshall, would tell them what the Constitution meant. Of course Jefferson was mad, all the way through.

At once on his becoming President a systematic and well organized attack was made upon the Federal Judiciary. The Federalists, at the close of their days of power, had by an Act of Congress dated the 13th day of February, 1801, sought to entrench themselves, as their critics and political opponents alleged, in the Judiciary department,

by rearranging the Judicial Districts, and by the establishment of separate Circuit Courts. Twenty-two Districts were established and were divided into six Circuits. This law gave to President Adams the appointment of sixteen new judges and their commissions were secured and delivered upon the eve of his departure from office and the incumbents were derisively styled "The Midnight Judges."

Put yourselves, gentlemen, in Jefferson's place. Just imagine your state of mind if such an Act was passed now. I, for precautionary reasons, entirely personal to myself, will restrain myself. "Jefferson did not hesitate to use his power and the new Congress, controlled by him, on March 8, 1802, repealed the Act Establishing Separate Circuit Courts, and in order to prevent Marshall and his associates from interfering, Congress, while destroying the new Circuit Courts, adopted the drastic remedy of suspending for more than a year the sessions of the Supreme Court by abolishing the August term. The Congressional assault was followed up by the impeachment of Judge Pickering, who had become insane because of the non-existence of prohibition laws, and by the impeachment of Mr. Justice Chase. These movements were intended to be the fore-runners of a general attack upon all members of the Judiciary including Marshall, who were in favor of National Consolidation. District Judge Pickering was found guilty, although clearly insane, a fact which robbed his conviction of its significance, while the acquittal of Justice Chase through the extraordinary skill and ability of his counsel in compelling John Randolph and his fellow managers to admit that the phrase 'high crimes and misdemeanors' in the Constitution meant indictable offences firmly established the safety of the Supreme Court, and Federal Judges were made secure in their positions."

Old John Randolph, of Roanoke, in his rage, submitted this amendment to the Constitution:

"The Judges of the Supreme Court and all other Courts of the United States shall be removed by the President on the joint address of both houses of Congress."

Even Jefferson, big and great as he was, could not become reconciled to his defeat. We find him after the lapse of fifteen years writing this to his friend, Thomas Ritchie:

"The Judiciary of the United States is the Subtle Corps of Sappers and Miners constantly working underground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone. Having found from experience that impeachment is an impracticable thing, a mere scarecrow, they consider themselves secure for life; they skulk from responsibility, an opinion is huddled up in conclave, perhaps by a majority of one, de-

livered as if unanimous, and with the silent acquiescence of lazy and timid associates, by a crafty Chief Judge who sophisticates the law to his mind by the turn of his own reasoning."

Thank God for the fact that today the great majority of intelligent, loyal American citizens rejoice that Marshall won in this mighty contest. Under his masterful leadership the supremacy of the National Government was established. As a great American lawyer has said:

"The judgments of Marshall carried the Constitution through the experimental period, and settled the question of its supremacy. Time has demonstrated their wisdom. They have remained unchanged, unquestioned, unchallenged. All the subsequent labors of that high tribunal on the subject of Constitutional law have been founded on, and have at least professed and attempted to follow them. There they will remain. They will always remain. They will stand as long as the Constitution stands—and if that should perish, they would still remain to display to the world the principles upon which it rose, and by the disregard of which it fell."

Verily Marshall was a great man, and his opinions upon Constitutional questions are worthy of the eulogistic words just quoted. But how much of his greatness was due to the fact that he had time to grow. He was Chief Justice of the Supreme Court from 1801 to 1835. During these 34 years but 1,106 opinions were filed of which 519 were prepared by Marshall. During those years but 62 decisions were given upon Constitutional questions, of which 36 were by Marshall, averaging a little over one a year. As has been truly said, when Marshall was Chief Justice:

"It was an age of great arguments at the bar, and great opinions from the bench. There were time and opportunity for both. The mercantile necessities of the people had not yet compelled the use by Judges of an hour glass, nor the substitution of citations of the latest authorities for a discussion of principles. Dialectics might still be wedded into Fancy; and neither was doomed to celibacy. Every argument was alive and in motion. The Statue of Pygmalion inspired with vitality."

As Adams appointed Marshall to perpetuate his Federalistic principles, so, in like manner, Jackson appointed Roger B. Taney, his Attorney General, Chief Justice of the Supreme Court in 1835. Jackson was a fighter. He would rather fight than eat. He engaged in a great fight with the Bank of the United States. He denied its legality notwithstanding the Supreme Court in *McCullough vs. Maryland* had sustained it. In this view he was supported by Taney, and

he was rewarded by being given the Chief Justiceship. Roger B. Taney was a great lawyer, a great judge, a noble, high-minded Christian gentleman. His term of service was from March 15, 1836, to the date of his death, which occurred Oct 16, 1864, twenty-eight years. Under his leadership we now realize that much of what was done has proved of unperishable value,—“that it was for the best that certain doctrines, particularly those relating to legislative grants, should not be permitted to run to dangerous extremes.”

As has been truly said:

“In this field Taney wrought better than he knew, and was singularly possessed of that insight, that unconscious sympathy with human progress, which induces a judge, while scrupulously administering existing law, to expand and advance and develop it, commensurate with human needs. The limitations upon the doctrine of the Dartmouth College case, as expressed in the Charles River Bridge case, have produced the happiest results in freeing the States from the grasp of monopolists, and in leaving them uncrippled in the exercise of most important rights of sovereignty.”

It is true that he adhered to his prior convictions as to the true construction of the Constitution. He was over sixty years of age when he for the first time engaged in judicial work, and they were well known at the time of his appointment. Indeed, as already stated, he was appointed because of them. Men fit to serve in high judicial positions have strong convictions and they carry them with them when they put on the Judicial robe. They must, as a rule, effect the Judicial mind.

What I have said about Chief Justice Taney's work has been preparatory to further illustrate the lasting effect resulting from a single act, or, as in this case, a single brief sentence. You all, of course, know that I have in mind his *Dredd Scott* opinion. Behold how great a fire a little spark kindleth, and as the immortal Bard said: “Reputation is an idle and most false imposition, oft got without merit, and lost without deserving.”

Both resulted from this decision. The spark which set the country on fire appears in the form of *Dredd Scott*, born a slave, son of negroes imported into this country and sold as slaves. Scott brought an action in the Circuit Court of the United States for the District of Missouri, to establish the freedom of himself, his wife and their two children, basing his claim on the ground that, having been taken by his master to the free state of Illinois, and having resided there, such residence emancipated him and his family. Mr. Carson says in his history of the Supreme Court, from which great work I have

freely drawn by way of text and otherwise: "Upon Chief Justice Taney's fair record but one blot appears—The 'Damned Spot' of the Dredd Scott decision will not 'out,' and though other illustrious names must share in the infamy of that blunder, yet the Chief Justice, by virtue of his eminence, must carry the blood stain on his ermine to Eternity."

I dissent. In my opinion this is a harsh and unmerited judgment and I am sure that Time, the Corrector where our judgments err, will reveal the exact truth to posterity. It is unbelievable that forever the true character of this great Judge and resulting reputation should be misunderstood by his countrymen. Brethren, pass your own judgment on this statement of facts:

In the course of his long opinion, after having shown historically that at the time of the adoption of the Constitution of the United States free negroes were not citizens, he said:

"They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations, and so far inferior that they had no rights which the white man was bound to respect, and that the negro might justly and lawfully be reduced to slavery for his benefit. He was bought and sold, and treated as an ordinary article of merchandise and traffic whenever a profit could be made by it. This opinion was at that time fixed and universal in the civilized portion of the white race."

Do you not all know that these words exactly stated the truth? Do you see any reason why they should cast a blood-stain on his Judicial ermine to Eternity? The simple truth is that Mr. Seward and his associates tore the single phrase "that they had no rights which the white man was bound to respect" from the context of the opinion and quoted it as if the Supreme Court had so decided. Of course a storm of indignation was aroused throughout the north and it greatly contributed to the Civil War. Perhaps some time those who deliberately, for partisan purposes, did this act, will take the place of Chief Justice Taney.

In all history there is no individual life which more leads to the question—Was it Chance or Fate?—than that of Abraham Lincoln. Last winter in Orlando, Florida, I heard a most interesting address delivered by an eloquent Southern lawyer, in which he traced Lincoln's career. He pointed out many incidents in his most eventful life, and at the end of each the question was asked—Was it Accident or Fate? The events were of so striking a character that he concluded that they could only be accounted for on the theory that his

birth, his removal from his native state by a shiftless father, to a land of freer opportunity, his finding two worn copies of Blackstone in a barrel of rubbish, et cetera, was in fulfillment of a Decree of Providence that in the fullness of time he should be the one to save our beloved Country. Speculation, you say; but I submit mighty interesting and suggestive. But there never was anything more certain than this: The one man, Lincoln, was a mighty and controlling factor in steering the Ship of State during those terrible years in our national history. The general facts of his administration are known to almost everyone. But the great value of his service in connection with the Supreme Court is not so well known. Again we see the great power of a President. It is possible that some time in weighing the several candidates for President the question—What kind of men would he be likely to appoint to the Supreme Bench?—will be more carefully considered. Time does not permit me to go into details. Just a bare reference can be made to his service. Lincoln, seventeen days after his inauguration, saw the walls of Fort Sumpter tremble and fall, and Old Glory, which had waved so proudly o'er its ramparts, lowered and surrendered to armed men bent on the destruction of the nation. He did not say, as his immediate predecessor had said: "I have no power to coerce a sovereign state, let our erring brethren depart in peace," but at once he issued a proclamation ordering the blockade of southern ports and the capture on the high seas of ships carrying contraband goods, or, of ships owned by citizens residing in the rebellious states.

This proclamation raised the vital question: Was there a war? Could there be a prize? The real peril of the situation is best described by Richard H. Dana, Jr. He said:

"The government is carrying on a war. It is asserting all the powers of war. Yet the claimants of the captured vessels not only seek to save their vessels, by denying that they are liable to capture, but deny the right of the government to exercise war powers,—deny that this can be, in point of law, a war. So the Judiciary is actually, after a war of 23 months duration, to decide whether the government has the legal capacity to assert these war powers. Contemplate the possibility of the Supreme Court deciding that this blockade is illegal. What a position it would put us in before the world, whose commerce we have been illegally prohibiting, whom we have been unlawfully subjecting to a cotton famine, and domestic danger and distress for two years. It would end the war, and where it would leave us with neutral powers, it is fearful to contemplate. Yet such an event is legally possible. I do not now

think it probable, hardly possible, in fact. But last year I think there was danger of such a result when the blockade was new, and before the three new judges were appointed."

Why does say "last year I think there was danger of such a result?" The answer is: The then composition of the Supreme Court. Three of its number had been appointed from slave holding states, and Chief Justice Taney had already from his Circuit bench in the Merryman case challenged the legality of that most important Act of President Lincoln, the suspension of the Habeas Corpus Act. But here again Fate or Chance is seen. By death and war, vacancies were created, and Lincoln names three stalwart men, great lawyers, great men, sound to the core in the conviction that all means necessary to save the Union could be constitutionally employed,—Swayne, Miller and Davis. Justice Miller is the great outstanding figure in the Triumverate. Of him it has been truly said: "The finding of such a judge by the President was only less fortunate than the finding of such a President by the Country." During his years of service he wrote more opinions of the Court than any Judge, living or dead, and more opinions in Construction of the Constitution than any justice who ever sat in the Supreme Court. His work entitles him to stand with Marshall and Story.

Chase had previously been appointed Chief Justice. His appointment by Lincoln is frequently cited as one of the greatest proofs of his undoubted magnanimity. In my dictionary I read:

"The President, in giving to his most powerful and most distinguished rival the greatest place which a President ever has it in his power to bestow, gave an exemplary proof of the magnanimity and generosity of his own spirit."

But Mr. Carson suggests that Mr. Lincoln, in making this appointment, was not altogether unmindful of the fact that by so doing he removed the greatest obstacle to his renomination. It seems to be the consensus of opinion that had he lived he would now be regarded as great a Chief Justice as he was Secretary of the Treasury. In that connection his name will always be associated with Robert Morris and Alexander Hamilton. But it is a fact appearing of record that some measures which he had devised as Secretary of the Treasury for the salvation of the Country he later, as Chief Justice, declared unconstitutional and void. While we should honor the candor and self-control which inspired such action, and agree that "men find it easy to review others, but much more difficult to criticize and review their own acts, to admit that they were wrong, we have great reason to rejoice over the fact that a majority of the Court decided that he was right when Secretary of the Treasury, and

wrong as Chief Justice. But before final decision was reached in what are known as The Legal Tender cases, the personnel of the Court was changed. In *Bronson vs. Rhodes*, 7 Wall, 229 and *Hepburn vs. Griswold*, 8 Wall, 603, the majority concurred with Chief Justice Chase. The three above named, Miller, Swayne and Davis, alone dissented. But by an act of Congress and the resignation of Mr. Justice Grier, President Grant had the opportunity of naming two more. He named for one vacancy Judge Strong, who, in *Shollenberger vs. Brinton*, 52, Pa. St. 9, (1866), had decided that the legal tender features of the Acts of Congress were constitutional, and Mr. Joseph Bradley, whose views were well known. Having now a majority, his Attorney General, made a motion that the legal tender question might be reconsidered and subsequently, in *Knox vs. Lee* and *Parker vs. Davis*, 12 Wall, 457, it was so reconsidered. As a result, the former decision in *Hepburn vs. Griswold*, was distinctly over-ruled and it was held that the Legal Tender Acts were constitutional and valid. The opinion of the Court was delivered by Mr. Justice Strong. After pointing out the many disastrous results that would follow if the acts were declared void, he says:

"The consequences of which we have spoken must be expected if there is a clear incompatibility between the Constitution and the Legal Tender Acts; but we are unwilling to precipitate them upon the Country unless such an incompatibility plainly appears. A decent respect for a co-ordinate branch of the Government demands that the Judiciary should presume, until the contrary is clearly shown, that there has been no transgression of power by Congress. He concluded that the provision which made treasury notes a legal tender for the payment of all debts, other than those expressly excepted, was not an inappropriate means for conveying into execution the legitimate powers of the government, nor was it forbidden by the letter or spirit of the Constitution."

He justified reversal of former decision on the ground that it was decided by a divided court, and Mr. Justice Bradley, who wrote a concurring opinion, on the further ground that the decision had largely entered into the political discussion of the day and had not been acquiesced in by the Country, which I think is an open admission that a thoroughly informed Public Sentiment, voicing the judgment and conscience of the American Voter, is an irresistible force before which prior decrees and precedents must give way; and also that what practical results will follow as a result of a decision is, and should be considered. I have said a thoroughly informed public

sentiment, which pre-supposes prior public and general discussion, thorough understanding and careful study on the part of the individual voter. It can then be trusted; but when based on ignorance, passion, prejudice or controlled newspapers, nothing is more unreliable, and nothing produces more serious consequences. In my opinion some country-wide movements would have been stopped, or greatly modified, had there been more of the first and less of the latter.

One of the most important decisions of the Court since the Rebellion was the Slaughter House Cases, 16 Wall. 36, involving the construction of the 13th, 14th and 15th amendments. It is one of the great 5 to 4 Decisions. It so greatly restricted the scope of said amendments that Mr. John S. Wise of the Sovereign State of Virginia, said of it:

"I said that we owed more to the American lawyer than to the American soldier, and I repeat it; For not all the victories of Grant, or all the marches of Sherman, have by brute force done as much to bulwark this people with the unestimable blessings of Constitutional liberty as that one decision of the Supreme Court in the Slaughter House Cases, declaring what of their ancient liberties remained. That decision, worthy to live through all time for its masterly exposition of what the war did and did not accomplish, did more than all the battles of the Union to bring order out of chaos. When war had ceased, when blood was staunch, when the victor stood above his vanquished foe with drawn sword, the Supreme Court of this nation, in this case, planted its foot and said: This victory is not an annihilation of State Sovereignty, but a just interpretation of Federal Power."

But Chief Justice Chase and Justices Field, Bradley and Swayne, all agreed that the construction of the three amendments by their five associates was wrong, that in declaring valid a state law the quality of citizens before the law guaranteed by the 14th amendment had been trampled upon and was opposed to the whole theory of free government, that it was intended by these amendments to secure the citizens against wrong and oppression by the state, but by the judgment of the majority this arm of our jurisdiction is stricken down and the will of the nation defeated.

Great lawyers appeared before the Supreme Court on March 7, 8, 11, 12, 13, 1895. Five days given over to the argument of one case! Surely it must be a great matter that is to be considered. It was, and it is entitled *Pollock vs. Farmers Loan and Trust Company*, 157 U. S. 429 to 654,—225 pages devoted to its consideration, of which

more than one-half is devoted to a statement of the case and the arguments of counsel,—Guthrie, Seward, Whitney, Edmunds, Olney, Carter. In the years of our own great Court the profession had in its reports not only the decision but the briefs of opposing counsel. We still look for aid to the briefs of Lothrop, Romeyn, Walker, Kent, Pond, Hughes and others of that great period, but now simply a re-reading of a long since published opinion. The Court decided that the Act of Congress of April 27th, 1894, commonly known as the Income Tax Law, in certain of its provisions, was unconstitutional and therefore void. It goes without saying that the country was aroused by this decision rendered by a divided Court, especially as the Court announced that as to certain other of its provisions no opinion would be given as the Judges who heard the argument were equally divided—4 to 4. The people remembered that five months after Fort Sumpter was fired upon Congress passed an Income Tax law and, as amended from time to time, it had continued in force until it expired by its own terms in 1871; that by its application millions of dollars had been raised to meet the expenses of the war; that the Supreme Court should, long years after, when its members were so evenly divided, annul this law, caused a great storm of protest throughout the country. Neither the government nor the other side were satisfied. Both asked for a re-hearing. The request was granted. It was re-argued and is reported in 158 U. S. at page 601. Mr. Justice Jackson leaves his sick bed in Tennessee so that the case can be heard before all the Justices. When the decision is announced it is found that five had reached the conclusion that the entire law was null and void, one of them, as generally reported throughout the country, changing his opinion as to its legality overnight. No such vigorous protests against the majority of one appear in the reports of the Court as are found in the dissenting opinions of Justices White, Harlan, Brown and Jackson. It was then said by many throughout the land that no such power should be vested in one man, and this opinion has grown with each nullification of law by a 5 to 4 decision of the Court.

Fortunately a Constitutional way had been provided by which the conscience and will of the people on a subject so vitally affecting the fate of their country had been provided and the power of Congress is now made certain by the 16th Amendment.

*Lochner vs. New York*, 177 U. S. 145, was decided by a 5 to 4 vote. This Decision aroused a storm of violent protest. The Legislature of the State of New York enacted a labor law which was approved by its Governor. Section 110 of said law provided that no employes shall be required or permitted to work in bakeries more than sixty hours in a week, or ten hours a day. *Lochner* was arrested for allowing an employee to work more than sixty hours in one week. He was con-

victed. The County Court of Oneida County, the Supreme Court and the Court of Appeals, which gave the case most careful consideration, affirmed the conviction. The case is appealed to the Supreme Court and the judgment set aside on the ground that the law was not a legitimate exercise of the police power of the State, but an unreasonable, unnecessary and arbitrary interference with the right and liberty of the individual to contract, in relation to labor, and as such in conflict with, and void under, the Constitution. Justices Harlan, Day, White and Holmes dissented. Mr. Justice Harlan said:

"No evils arising from such legislation could be more far-reaching than those that might come to our system of government if the Judiciary, abandoning the sphere assigned to it by the fundamental law, should enter the domain of legislation, and upon grounds merely of justice, or reason, or wisdom, annul statutes that had received the sanction of the people's representatives. We are reminded by Counsel that it is the solemn duty of the Courts in cases before them to guard the Constitutional rights of the citizens against merely arbitrary power. That is unquestionably true; but it is equally true, indeed, the public interests imperatively demand, that legislative enactments should be recognized and enforced by the Courts as embodying the will of the people, unless they are plainly and palpably, beyond all question, in violation of the fundamental law of the Constitution."

Mr. Justice Holmes said:

"I think that the word liberty in the 14th amendment is perverted when it is held to prevent the natural outcome of a dominant opinion, unless it can be said that a rational and fair man necessarily would admit that the statute proposed would infringe fundamental principles as they have been understood by the traditions of our people and our law. It does not need research to show that no such sweeping condemnation can be passed upon the statute before us. A reasonable man might think it a proper measure on the score of health. Men whom I certainly could not pronounce unreasonable would uphold it as a first installment of a general regulation of the hours of work."

The last 5 to 4 Decision to which I shall call your attention concerns Child Labor. For many years men in Congress, and thousands of good men and women in private life have urged the passage of a law to prevent the employment of young children. They insisted that it was unspeakably infamous that men should get rich from the labor of children by grinding their flesh and blood into dollars; that

child labor under harsh and unwholesome conditions is a wrong not alone against the children whose lives are thus blighted but against society itself; that many a criminal in the prisons, many an incurable invalid in the hospitals, owes his pitiable condition to enforced work in childhood that sapped his life or impressed upon him a life-time detestation of all work; that child labor in the factories is a wrong against all labor and against all right industrial relations. For years they have appealed to the conscience of the American People. Congress heeded it and enacted the Act of September 1, 1916, which prohibited transportation in inter-state commerce of goods made at a factory in which, within thirty days prior to their removal therefrom, children under the age of 14 years have been employed or permitted to work, or children between the ages of 14 and 16 years have been employed or permitted to work more than eight hours in any day, or more than six days in any week, or after the hour of 7 P. M., or before the hour of 6 A. M. The people of the country thought that the fight had been won. But once again the Courts are appealed to and asked that the law be declared null and void. The suit is brought in the District Court of the United States for the Western District of North Carolina. This state is one of the worst offenders in its sordid indifference to the protection of childhood. In some sections of the south mill owners may permit children under fourteen years to work fifty-six hours weekly, and if they have lost one parent they may work any number of hours required.

Judge Boyd, having spent his life under such an environment and with such a state of public opinion, is the Judge of the Court. He decides that the law is unconstitutional as exceeding the commerce powers of Congress and because it invaded the powers reserved to the States. The National Government at once appealed to the Supreme Court. Its Solicitor General and other officers of the Department of Justice did their utmost to save the law. They failed. On June 3, 1918, the case of *Hammer, United States Attorney for the Western District of North Carolina vs. Dagenhart et al.*, is decided and declared unconstitutional and void, on the ground that in a two-fold sense the act was repugnant to the Constitution: "It not only transcends the authority delegated to Congress over commerce, but also exerts a power as to a *purely* local matter to which the Federal authority does not extend." But four of the Justices held just the opposite opinion. It was prepared by Mr. Justice Holmes (247 U. S. 277). He said:

"The single question in this case is whether Congress has power to prohibit the shipment in inter-state or foreign commerce of any product of a cotton mill situated in the United

States, in which within thirty days before the removal of the product, children under 14 years have been employed, or children between 14 and 16 have been employed more than 8 hours in a day, or more than 6 days in any week or between 7 in the evening and 6 in the morning. The objection urged against the power is that the States have exclusive control over their methods of production and that Congress can not meddle with them, and, taking the proposition in the sense of direct intermeddling, I agree to it and suppose that no one denies it. But if an act is within the powers specifically conferred upon Congress, it seems to me that it is not made any less constitutional because of the indirect effects that it may have, however obvious it may be that it will have those effects and that we are not at liberty upon such grounds to hold it void. \* \* \* The question then is narrowed to whether the exercise of its otherwise constitutional power by Congress can be pronounced unconstitutional because of its possible re-action upon the conduct of the states in a matter upon which I have admitted that they are free from direct control. I should have thought that that matter had been disposed of so fully as to leave no room for doubt. I should have thought that the most conspicuous decision of this court had made it clear that the power to regulate commerce and constitutional powers could not be cut down or qualified by the fact that it might interfere with the carrying out of the domestic policy of any state. The manufacture of oleomargarine was a matter of state regulation as much as the manufacture of cotton cloth. \* \* \* Fifty years ago, a tax on state banks, the obvious purpose and actual effect of which was to drive them, or at least their circulation, out of existence, was sustained, although the result was one that Congress had no constitutional power to require. The Sherman act has been made an instrument for the breaking up of combinations in restraint of trade and monopolies, using the power to regulate commerce as a foothold, but not proceeding because that commerce was the end actually in mind. The pure food and drug act was sustained with the intimation that 'no trade can be carried on between the states to which the power of Congress to regulate commerce does not extend.' I had thought that the propriety of the exercise of a power admitted to exist was for the consideration of Congress alone, and that this Court always had disavowed the right to conduct its judgment upon the questions of policy or morals. It is not for this Court to pronounce when prohibition is necessary, to say that it is permissible as against strong and not as against

the product of ruined lives. The act does not meddle with anything belonging to the states. They may regulate and inter-link affairs and their domestic commerce as they like, but when they seek to send their products across the state lines they are no longer within their rights. If there were no Constitution and no Congress, their power to cross the line would depend upon their neighbors. Under the Constitution such commerce belongs not to the states but to Congress to regulate. It may carry out its views of public policy, whatever effect they may have upon the activities of the states. Instead of being encountered by a prohibitive tariff at their boundaries, the state encounters the public policy of the United States, which it is for Congress to express.

The public policy of the United States is shaped with a view to the benefit of the nation as a whole. If, as has been the case within the memory of men still living, the state should take a different view of the propriety of sustaining a lottery from that which generally prevails, I cannot believe that the fact would require a different decision from that reached in *Champion vs. Ames*. Yet in that case it would be said with quite as much force as in this, that Congress was tending to inter-meddle with the state's domestic affairs. The national welfare as understood by Congress may require a different attitude within its sphere from that of some self-seeking state. It seems to me entirely constitutional for Congress to enforce its understanding by all the means in its command."

By the vote of one man all the work of years is undone. It must be done all over again. Congress at once enacted a law to cover the defects of the former law. It placed a tax of 10 per cent on products of factories employing children under 14 years of age, or those between 14 and 16 years working more than 8 hours daily, when the products enter inter-state commerce. Again Judge Boyd is appealed to and again he decides that this second act of Congress is null and void as it seeks to accomplish the regulation of employment by indirection in the use of the taxation powers, and is an invasion of the state's regulatory authority. And now it must go to the Supreme Court again. If again it is declared void by one vote, then the long process of amending the constitution must begin.

Is it any wonder that when the will of the people is so easily thwarted a storm of protest follows?

All these cases so decided by a 5 to 4 vote, and many others to which I refer in the foot-note were decided by Justices in accord with their life-long convictions as to how the Constitution should be construed,—in a word, as they believed in National or State Sovereignty.

If they believed in the first they construed its provisions liberally, if in the latter, strictly. A large volume would be required to contain quotations from our judges extolling the wisdom of the Fathers in framing our dual form of Government: "An Indestructible Union composed of Indestructible States." They believed that the salvation of the country depended upon a rigid and strict adherence to this fundamental principle. Therefore they have felt it their bounden duty to declare null and void any act of Congress which, in their opinion, violated any of its provisions, with the result that many of our people have come to the conclusion that judges who have been long withdrawn from active participation in current affairs, should not have the power to annul legislation resulting from a condition of society entirely different from that which existed when the Constitution was adopted more than 130 years ago. If there is a lawyer in this country who has the unbounded respect of every lawyer throughout the length and breadth of our land, that lawyer is Elihu Root. He is known as a Conservative Lawyer and Statesman. So much so, indeed, that it has prevented his becoming a presidential candidate. I know that you will like to hear from him. Senator Root says:

"What is to be the future of states of the union under our dual system of government? The conditions under which the clauses of the constitution distributing powers to the national and state governments are now and henceforth to be applied, are widely different from the conditions which were or could have been within the contemplation of the framers of the constitution and widely different from those which obtained during the early years of the republic. When the authors of the Federalist argued and expounded the reasons for union and the utility of the provisions contained in the constitution, each separate colony transformed into a state was complete in itself, and sufficient to itself, except as to a few exceedingly simple, external relations of state to state and to foreign nations; from the origin of production to the final consumption of the product, from the birth of a citizen to his death, the business, the social and the political life of each separate community began and ended for the most part, within the limits of the state itself; the long time required for travel and communication between the different centers of population, the difficulties and hardships of long and laborious journeys, the slowness of the mails, and the enormous cost of transporting goods, kept the people of each state tributary to their own separate colonial center of trade and influence, and kept their activities within the ample and sufficient jurisdictions of the local laws of their state. The

fear of the fathers of the republic was that these separate and self-sufficient communities would fall apart, that the union would resolve into its constituent elements, or that, as it grew in population and area, it would split up into a number of separate confederacies. Few of the men of 1787 would have deemed it possible that the union they were forming could be maintained among one hundred millions of people, spread over the vast expanse from the Atlantic to the Pacific and from the Lakes to the Gulf.

"Three probable causes have made this possible. One cause has been the growth of a national sentiment, which was at first almost imperceptible. The very difficulties and hardships to which our nation was subjected in its early years, the injuries to our commerce, and the insults and indignities to our flag on the part of both of the contestants in the great Napoleonic wars, served to keep the nation and national interest and national dignity constantly before the minds and in the feelings of the people. As the tide of immigration swept westward, new states were formed of citizens who looked back to the older states as the homes of their childhood and their affection and the origin of their laws and customs, and who never had the peculiar and special separate political life of the colonies. The Civil War settled the supremacy of the nation throughout the territory of the union, and its sacrifice has sanctified and made enduring that national sentiment. Our country as a whole, the noble and beloved land of every citizen of every state, has become the object of pride and devotion among all our people, north and south, within the limits of the proud old colonial commonwealths. Throughout the vast region where Burr once dreamed of a separate empire, dominating the Valley of the Mississippi and upon the far distant shores of the Pacific; and by the side of this strong and growing loyalty to the nation, sentiment for the separate states has become dim and faint in comparison.

"The second great influence has been the meeting together in things of common interest, of the people forming the once separate communities through the working of free trade among the states. To it we owe the domestic market for the products of our farms and forests and mines and factories, without a parallel in history, and an internal trade which already exceeds the entire foreign trade of all the rest of the world; and to it we owe in a high degree the constant drawing together of all parts of our vast and diversified country in the bands of com-

mon interest and in the improving, good understanding and kindly feeling of frequent intercourse.

"The third great cause of change is the marvelous development of facilities for travel and communication produced by the inventions and discoveries of the past century. The swift trains that pass over two hundred twenty million miles of railroad, the seventy millions of messages that flash over the more than fourteen hundred thousand miles of telegraph wires, the conversations across vast spaces through our more than four million four hundred thousand telephone instruments, take no note of state lines; they have broken down the barriers between the separate communities and they have led to a reorganization of the business and social life of the people of the United States along lines which, for the most part, altogether ignore the boundaries of the states. The people move in great throngs to and fro from state to state and across states; the important news of each community is read at every breakfast table throughout the country; the interchange of thought and sentiment and information is universal; and the wide range of daily life and activity and interest, the old lines between the states and the old barriers which kept the states as separate communities are completely lost from sight. The growth of national habits and the daily life of a homogeneous people keeps pace with the growth of national sentiment.

"Such changes in the life of the people cannot fail to produce corresponding political changes. It is plainly to be seen that the people of the country are coming to the conclusion that in certain important respects the local laws of the separate states, which were adequate for the due and just regulation and control of the business which was transacted, and the activity which began and ended within the limits of the several states, are inadequate for the due and just control of the states, and that such power of regulation and control is gradually passing into the hands of the national government. Sometimes by an assertion of the interstate commerce power, sometimes by an assertion of the taxing power, the national government is taking up the performance of duties which under the changed conditions the separate states are no longer capable of adequately performing. The Federal anti-trust law, the anti-rebate law, the railroad rate law, the meat inspection law, the oleomargarine law, the pure food law, are samples of the purpose of the people of the United States to do through the agency of the national government the things which the separate state governments formerly did adequately but no longer do

adequately. The end is not yet. The process that interweaves the life and action of the people in every section of our country with the people in every other section, continues and will continue with increasing force and effect; we are urging forward in a development of business and social life which tends more and more to the obliteration of state lines and the decrease of state power as compared with national power. The relations of the business of which the federal government is assuming control, of interstate transportation with state transportation, of interstate commerce with state commerce, are so intimate and the separation of the two is so impracticable, that the tendency is towards the national control of the national government of both. New projects of state control are moving; control of insurance, uniform divorce laws, child labor laws, and many others affecting matters formerly entirely within the cognizance of the states are proposed. It follows, then, if any state is maintaining laws which afford opportunity and authority for practices condemned by the public sense of the whole country, or laws which, through the operation of our modern system of communications and business are injurious to the interests of the whole country, that state is violating the conditions upon which alone its power can be preserved. If any state maintains laws which promote and foster the enormous over-capitalization of corporations condemned by the people of the country generally; if any state maintains laws designed to make easy the formation of trusts and the creation of monopolists, if any state maintains laws which permit conditions of child labor revolting to the sense of mankind, if any state maintains laws of marriage and divorce so far inconsistent with the general standard of the nation as violently to disarrange the domestic relations, which the majority of the states desire to preserve, that state is promoting the tendency of the people of the country to seek relief through the national government and press forward the movement for national control and the extinction of local control. It is useless for the advocates of state rights to inveigh against the supremacy of the constitutional laws of the United States or against the extinction of national authority in the fields of necessary control where the states themselves fail in the performance of their duty. The instinct for self-government among the people of the United States is too strong to permit them long to respect anyone's right to exercise the power which he fails to exercise. The governmental control which they deem just and necessary they will have. If the states fail to furnish

it in due measure, sooner or later constructions of the Constitution will be found to vest the power where it will be exercised in the national government."

I submit that no man can truthfully deny the existence of the facts marshalled by Mr. Root and the necessity of recognizing them.

The subject I am presenting is not an academic one, it is a vital, living question, pressing home for solution. The Executive Council of the American Federation of Labor has adopted a report, providing among other things, that the practice of courts in vetoing legislation should be remedied by providing that when a legislature reenacts the measure the same shall become the law without being subject to annulments by the Court.

President Gompers says:

"We mean that the power of government shall be taken out of the hands of our Judiciary, which now exercises a power exercised by no other Judiciary in the world. We mean that, when the people of the United States have educated themselves up to certain reforms in government, when these reforms have been run into legislation, and passed by Congress and approved by the President, they shall not be nullified by the edict of the Judiciary, which sometimes, owing to a decision of the Court, is the edict of a single man."

We are face to face with this dangerous propaganda. It means the substitution of the independent power of the Judiciary by the unrestrained will of a legislature or Congress. It means the substitution of one system of government for another. As lawyers we know what this means. We know that there can be no real liberty, under our present system, other than through the medium of the Courts of Justice, whose duty it must be to declare all acts contrary to the clear provisions of the Constitution void. No man has ever been able—nor no man ever will be able—to gainsay the words of Chief Justice Marshall, in *Marbury vs. Madison*. As well attempt to deny that twice two make four.

But, gentlemen, we can not ignore facts. We must admit that this impatience exists. What is the remedy for this condition? How can this dangerous propaganda be met? How can all the people be with us in our love for the Constitution and in our profound respect for the Supreme Court of the United States? By simply removing the cause on which it is based. That cause is the easy way in which the deliberate will of the People has been and can be thwarted. They feel that in subjects near to their hearts those words of Chief Justice Marshall in *Fletcher vs. Peck*, 6 Cranch 87-128 have been disregarded. He says:

"The question whether a law be void for its repugnancy to the Constitution is, at all times, a question of much delicacy, which ought seldom, if ever, to be decided in the affirmative, in a doubtful case. It is not on slight implication and vague conjecture that the legislature is to be pronounced to have transcended its powers and its acts to be considered as void."

They cannot understand how such a law can be so doubtful, in a constitutional sense, when they know that before it was enacted it was critically examined by the Judiciary Committees of both House and Senate, composed of the ablest lawyers of the Congress; when they know that it was also examined by the Attorney General of the United States; then when four Justices of the Court, after full consideration, are also of the opinion that the law is constitutional, they think, and I submit that they have reason to think, that no such doubt exists as to warrant the annulment of the law by a 5 to 4 vote. No man can be convicted without a unanimous vote of 12 men. In all cases of impeachment a two-thirds vote is required. I submit that this rule should obtain when a law of Congress is impeached. I have shown the power of one vote. I have shown what mighty events have resulted from the casting of one vote. Knowing full well its power, I would, if I could, prevent its exercise when thereby a law of Congress would be declared void. I am certain that if a law were passed by which a two-thirds vote of the entire membership of the Court would be required before an Act of Congress could be declared void, it would be of lasting benefit and for the good of all. Gentlemen, we are living in a great period of readjustment. We must meet all questions with an open mind but always mindful of our great responsibility.

Brethren, now, as ever, a great responsibility rests upon us. If there be security for life, liberty and property, it is because the lawyers of America have not been unmindful of their obligations as ministers of Justice. Jefferson, who wrote our Declaration, was a lawyer. Lawyers framed, in large part, our Constitution. Search the history of every state in the union, and it will ever be found that they have always been foremost in all movements having for their object the maintenance of the law against violence and anarchy; the preservation of the just rights both of the government and the people. I recall what Gladstone said at a banquet given in honor of the great French advocate Berryer. He had just returned from a visit to the South of Europe and witnessed there much cruel oppression of the people. The executive power, he said, had not only broken the law, but had established in its place a system of arbitrary will. He found, to use his own words, that the audacity of tyranny, which had put down chambers and municipalities, and extinguished the

press, had not been able to do one thing to silence the bar. He, himself, heard lawyers in Courts of Justice, undismayed by the presence of soldiers, and in defiance of despotic power, defend the cause of the accused with a fearlessness that could not have been surpassed. This has always been true of the American Bar. If we are true to our traditions and to ourselves it can continue to be said that its members are inseparable from our National life, from the security of our National institutions.

Five to Four Decisions of the Supreme Court of the United States not above referred to:

Virginia coupon cases, 114 U. S. 269; *Wheeler vs. New Brunswick Ry. Co.*, 115 U. S. 29 U. S. 210; *The Great Western*, 118 U. S. 520; *Hilton vs. Gray*, 159 U. S. 113; *Saltonstall vs. Burtwell*, 164 U. S. 54; *Adams Express Co. vs. Ohio*, 165 U. S. 194; *United States vs. Freight Association*, 166 U. S. 290; *Keck vs. U. S.*, 172 U. S. 434; *Atchison, T., etc. Ry. vs. Matthews*, 174 U. S. 96; *The Pedro*, 175 U. S. page 354; 177 U. S. 145; *Freeport Water Co. vs. Freeport City*, 180 U. S. 587; *Fairbanks vs. U. S.*, 181 U. S. 283; *Downes vs. Bidwell*, 182 U. S. 244; *Wilson vs. Nelson*, 183 U. S. 191; *Carnegie Steel Co. vs. Cambria Iron Co.*, 185 U. S. 403; *Lottery case*, 188 U. S. 321; *Deposit Bank vs. Frankfort*, 191 U. S. 521; *South Dakota vs. North Carolina*, 192 U. S. 286; *Lochner vs. New York*; *Northern Pacific Ry. Co. vs. Dixon*, 194 U. S. 338; *Northern Securities Co. vs. U. S.*, 193 U. S. 197; 195 U. S. 100; *San Fran. Nat. Bank vs. Dodge*, 197 U. S. 70; *Keppel vs. Tiffin Sav. Bank*, 197 U. S. 356; *The Eliza Lines*, 199 U. S. 119; *Haddock vs. Haddock*, 201 U. S. 562; *Fauntleroy vs. Lum*, 210 U. S. 230; *Continental Wall Paper Co. vs. Voight & Son's Co.*, 212 U. S. 227; *Hyde vs. U. S.*, 225 U. S. 347; *Slocum vs. N. Y. Life Ins. Co.*, 228 U. S. 364; *Hoke vs. U. S.*, 227 U. S. 308; *Northern Pac. Ry. Co. vs. Boyd*, 228 U. S. 482; *City of Owensboro vs. Telegraph & Tel. Co.*, 230 U. S. 53; *Lankford vs. Platte Iron Works*, 235 U. S. 361; *Cumberland Glass Mfg. Co. vs. Dewitt & Co.*, 237 U. S. 447; *L. & N. Ry. Co. vs. United States*, 242 U. S. 60; *Adams vs. Tanner*, 244 U. S. 590; *Paine Lumber Co. vs. Neal*, 244 U. S. 459; *So. Pacific Co. vs. Jensen*, 244 U. S. 205; *Hammer vs. Dagenhart*, 247 U. S. 253.

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**REPORTS OF OFFICERS AND COMMITTEES**

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REPORT OF COMMITTEE ON LEGISLATION AND LAW REFORM,  
ANN ARBOR, MICHIGAN, JUNE 20, 1919.

To the Michigan State Bar Association.

I.

Your committee on Legislation and Law Reform, begs leave to report:—

At the last meeting of this association, held in Kalamazoo in 1918, this committee was instructed to use its efforts to procure the passage of a law to repeal Act Number 172, of the Public Acts of 1917, depriving litigants of the unlimited right to appeal from judgments under five hundred dollars; to attempt to procure the enactment of a law providing for declaratory judgments; a law providing for the revision and consolidation of the laws relating to corporations; and the passage of an act to provide for the making and publication of an index to all local and special acts of the legislature of the State of Michigan.

Your committee takes pleasure in reporting:—

That Act Number 172 of the Public Acts of 1917, limiting appeals to cases where the judgment was more than five hundred dollars, was repealed by Act Number 14 of the Public Acts of 1919, so that the statute now stands as it stood in the original Judicature Act.

That the legislature passed Act Number 150 of the Public Acts of 1919, entitled, "An act to authorize courts of record to make binding declarations of rights." This law is along the lines of the law advocated by Professor Sunderland, and was drafted by him.

That the legislature passed Senate Enrolled Act Number 8, entitled, "An act to authorize and direct the Attorney General to prepare a bill or bills for the revision, consolidation and simplification of the laws of this state, relating to corporations."

This act provides that the Attorney General shall submit his work to the legislature on or before January 15th, 1921.

That the legislature also passed Senate Enrolled Act Number 187, entitled, "An act to provide for the making and publication of an index to all local and special acts of the legislature of the State of Michigan."

This constitutes all of the measures which were recommended at the last meeting of this association. They are now law.

## II.

Your committee is still in favor of increasing the authority of officers to arrest for misdemeanors.

Following the recommendation made in the report of the special committee on criminal law and procedure, at the 1916 meeting your committee prepared a bill increasing the authority of Officers to arrest for misdemeanors, which was defeated by the legislature in 1917. At the last meeting of this association your committee requested instructions to renew its efforts to procure the passage of such a bill but such request was not granted.

If a person commits a misdemeanor not a breach of the peace, in the presence of an officer, it seems absurd to require the officer to visit a magistrate, make a complaint, procure the issuance of a warrant, and then armed with the warrant, attempt to find the offender where the officer left him, before a legal arrest can be made. The offender moves, and it is folly to prevent an officer from arresting a person for a misdemeanor committed in his presence, and likewise folly to prevent an officer from arresting a person without the warrant when a warrant for a misdemeanor has actually been issued, even though the arresting officer does not have a warrant in his possession. Officers are maintained by the public to enforce the law. They are deprived by law of authority to do so.

The present tendency we believe to be, as a result of our agitation before the legislature, is toward giving to officers this authority.

The present legislature, by Act Number 53 of the Public Acts of 1919, amending the prohibition law, provided.—

"Any sheriff or other peace officer may arrest without a warrant any person violating this Act in the presence of such officer, and shall forthwith take such person before a magistrate of competent jurisdiction, and there make complaint against such person for such violation. Any such officer may, without being in possession of the warrant, arrest any person for whom a warrant has been issued in this State, and is unserved, charging a violation of this Act."

Section 5 of the act creating the Michigan State Police, formerly known as the State Constabulary, passed in 1919 provides:

"The several officers and members of the force shall have and exercise all the powers of deputy sheriffs in the execution of the criminal laws of the State, and all of the laws for the discovery and prevention of crime, and shall have authority to make arrests without warrants for all violations of the law committed in their presence including laws designed for the

protection of the public in the use of the highways of State, and to serve and execute all criminal process."

Your committee sees no reason why all other officers should not have like power.

Your committee therefore recommends that this association instruct its committee on legislation and law reform to present to the next legislature, a bill substantially as follows:

#### "A BILL

To authorize arrests for misdemeanors in certain cases by officers not having possession of a warrant.

*The People of the State of Michigan enact:*

Section I. Any sheriff, or other police or peace officer, may arrest without a warrant any person violating any law of the State, in the presence of such officer, and shall forthwith take such person before a magistrate of competent jurisdiction, and there make complaint against such person for such violation. Any such officer may, without being in possession of a warrant, arrest any person for whom a warrant has been issued in the state, and is unserved, charging a violation of any law."

#### III.

Your committee respectfully calls attention to the several amendments made to the Judicature Act by the legislature of 1919, which are not herein specifically enumerated, copies of which said amendments may now be procured from the office of the Secretary of State.

All of which is respectfully submitted.

WALTER S. FOSTER,  
EDSON R. SUNDERLAND,  
A. H. RYALL,  
WILLIAM W. POTTER, Chairman,  
Committee on Legislation and Law Reform.

#### UNIFORM STATE LAWS.

The Second Annual Report of the Committee on Uniform State Laws.

To the Michigan State Bar Association on the Progress of Uniformity of Legislation in Michigan and the United States:

Since the last report of the Commissioners, there was held at Cleve-

land Ohio, the twenty-eighth Annual Conference, where there were present sixty-one Commissioners representing thirty-three Jurisdictions.

The proposed Uniform Conditional Sales Act and Uniform Fraudulent Conveyance Act were both duly approved and recommended to the various States for enactment.

During the year 1917 the total number of different acts recommended by the Conference and which have been enacted into law by the States was fourteen. The total number of enactments is forty-four. The total jurisdictions where uniform acts have been adopted are one hundred and fifty-eight and the number of jurisdictions where they have not been adopted is nine hundred and fifty-one. The Negotiable Instruments Act, the Warehouse Receipts Act, the Bills of Lading Act, the Sales Act, the Stock Transfer Act, the Foreign Probate Act and the Partnership Act are now a part of the law of this state.

The National Conference is now made up of Commissioners from forty-eight states including territories, districts and possessions of the United States. During the past year the Board of Michigan Commissioners has lost the services of a valuable member, Dan H. Ball of Marquette, who died February 21st, 1918. The Hon. Edward Cahill was appointed to take the place on the Commission of the Hon. Cyrenius P. Black, deceased. Mr. Burritt Hamilton, of Battle Creek, has since been appointed to take the place of the Hon. Dan H. Ball.

There were two uniform acts recommended to the Legislature of Michigan in 1919. These two acts are the Uniform Conditional Sales Act and the Uniform Fraudulent Conveyance Act.

#### 1.—The Uniform Conditional Sales Act.

The unsatisfactory nature of the law governing conditional sales of chattel property has often been the subject of public inquiry. The fact that the buyer is immediately intrusted with possession of the property and the power to use it as his own offers easy opportunity for defrauding both the buyer's creditors and the sub-purchasers from him. Attempts have been made in most of the States to guard against this difficulty by enacting statutes which make recording or filing of conditional sales a condition of its validity against third parties.

These statutes are by no means uniform in their requirements and subject a conditional seller of goods, who sells goods all over the country, to great inconvenience in discovering and complying with the different statutory regulations. Most courts have failed to recognize that conditional sale is in its essence similar to a chattel mortgage, the seller's title being retained merely for the purpose of security, and the buyers acquiring from the outset not merely an executory contractual right, but a property interest in the goods. The result has been a great conflict of authority in regard to the rights of the parties. This makes the subject a most important one for regulation by a uniform statute in the several states.

After several tentative drafts had been prepared, August 1916 and August 1917, the final draft of this act was adopted at the Cleveland Conference in August 1918, and finally recommended for passage. In the *first* place, this act embraces all conditional sales and provides that all conditional sales must be filed in order to be good as against "subsequent purchasers, mortgagees and pledgees from the buyer for value, though without notice of the seller's title,"—and also as against "creditors of the buyer who levy upon or attach the goods, though without notice of such title". The original contract or a copy thereof must be filed in the office of the City Clerk or City Recorder, or the Township Clerk, as the case may be, at least ten days after the date thereof, in which city or township the goods are first kept for use by the buyer after the sale. The filing of the contract shall be valid for a period of three years only, and the validity of the filing may in each case be extended for successive periods of one year each from the date of filing, in the proper filing district, a copy of the original contract within thirty days next preceding the expiration of each period.

In Michigan the time limit is only one year. 3 Comp. Laws (1897), 9526, Sec. 13, p. 2917.

This provision as to the filing of conditional contracts would be new legislation, if it were not for the case of *Young v. Phillips*, 168 N. W. 549, (Mich., June 1918), which requires that all title contracts which reserve the title as security are to be treated as chattel mortgages and must be filed as stated. Such contracts are held valid without being filed since the case of *Couse v. Tregent*, 11 Mich., 65, (1862), wherein it was held that, whether these contracts shall be filed or not, that was a matter of legislative action and not of judicial opinion. Up to the present time there has never been any general recording act in Michigan. In *Young v. Phillips* it was held that where there was total reservation of title the contract need not be filed, but the uniform act requires all such contracts to be filed whether the reservation is absolute or held only as security.

The rule in Michigan as to these contracts is substantially that which is contained in the Uniform Conditional Sales Act except as stated.

All distinction in contracts, whether the reservation is absolute or is in terms a lease, is wiped out. Even where the vendor has reserved the title to a chattel, as by a lease, which is affixed by the vendee to his realty, such vendor has no rights as against a subsequent purchaser or mortgagee of the realty without notice of such conditional sale or lease. In other words, the purchaser of mortgagee gets a good title to the personal property as a part of the realty, if without knowledge of the unrecorded conditional sale or lease.

*Jenks v. Cadell*, 66 Mich. 420.

*Wickes Bros. v. Hill*, 115 Mich. 333.

In the Public Acts of 1915, Sec. 1, p. 112, there is an act which requires that conditional sale contracts of goods to a retailer to be resold by him shall be recorded in order to be valid as against anyone except the seller and the buyer.

This act also provides that the buyer shall be liable for the price after resale, but neither the bringing of an action by the seller for the recovery of a judgment in such action, nor the collection of a portion of the price, shall be deemed inconsistent with a later retaking of the goods as already provided in the Act. It is often held that the retaking of the goods by the seller constitutes an election which prevents him from later suing for the purchase price.

*Atkinson v. Japink*, 186 Mich. 338.

But upon this question the authorities are not harmonious.

The prevailing view is that the commencement of an action for the entire price prevents the retaking of the goods at a later time, but the minority view which is that adopted in the Act seems more reasonable and in accordance with the chattel mortgage theory of a conditional sale.

The Act does not countenance the doctrine that the seller rescinds the contract by retaking the goods and holding them as security for the balance due. The rule in Michigan is that the buyer upon default forfeits the part payments already made, if the seller retakes the goods.

*Thrifty v. Rainbow*, 93 Mich. 164.

But he cannot do both, retake the property and sue for the amount due.

*Perkins v. Grobben*, 116 Mich. 172.

If he holds the retaken goods as sole owner, his act should be treated as a rescission.

This is the rule approved by Sec. 19, when the buyer has paid less than fifty percent of the price. In such a case the probability is that the buyer's equity of redemption is worthless; that the goods depreciated by use, will not bring enough to yield a surplus over the balance of the price and expenses of retaking, storing and selling.

Hence, the seller is allowed to keep the goods as his own and discharge the buyer from all obligation under the contract, unless the latter, within ten days after retaking, makes a written demand for resale. When (Sec. 20) less than one-half of the price has been paid, the seller is accorded a like option of notifying the buyer that he will not hold the goods as his own, but will deal with them on the buyer's behalf and look to him for any subsequent deficiency (Sec. 22). If the buyer has paid more than one-half the price, the seller has not the option referred to in the last preceding paragraph, but is bound

to bring the goods to a resale, under carefully prescribed but entirely fair requirements, (Sec. 16) or the buyer may recover from him all payments made under the contract with interest. (Sec. 21).

This Act is practically in harmony with the law of Michigan as now declared by the Supreme Court of the State. It accords with the best accepted authorities on the subject and is to be considered as the best authoritative statement of the law on the subject.

## 2.—The Uniform Fraudulent Conveyance Act.

Existing confusions in the law relating to conveyances in fraud of creditors make the adoption by the different states of an act which will put an end to the confusions by concise and clear statements of legal principles pertaining to the subject a matter of practical importance.

The confusions and uncertainties of the existing law are due primarily to three things:

*First*, the absence of any well recognized, definite conception of insolvency.

*Second*, the failure to make clear the persons legally injured by given fraudulent conveyances.

*Third*, the attempt to make the "Statute of Elizabeth" cover all conveyances which wrong creditors, even though the actual intent to defraud does not exist.

The "Statute of Elizabeth" condemns conveyances as fraudulent where the "intent" to "hinder, delay or defraud" does not exist. There are many conveyances which wrong creditors where an intent to defraud on the part of the debtor does not in fact exist. In order to void these conveyances, the courts have called to their assistance presumption of law as to intent, and in equity have pushed presumptions of fraud as a fact to an unwarranted extent with the result that while in the main the decisions under the facts do justice the reasoning supporting them leaves much to be desired.

In the Act as drafted, all possibility of a presumption of law as to intent is avoided. Certain conveyances which the courts have in practice condemned, such as a gift by an insolvent, are declared fraudulent irrespective of intent. On the other hand, while all conveyances with intent to defraud creditors are declared fraudulent, it is expressly stated that the intent must be "actual" intent, as distinguished from "intent presumed" as a matter of law.

This is practically the rule of law in Michigan.

In fact, the question of fraudulent intent is now made by Statute a question of fact and not of law.

3 Comp. Laws (1897), Sec. 9536, p. 2922.

A conveyance is only fraudulent and void when made with intent to hinder, delay or defraud.

"Insolvency" is defined to be that condition when the present, fair, salable value of one's assets is less than the amount that will be required to pay his probable liability on his existing debts as they become absolute and matured.

**Wooden v. Wooden**, 72 Mich. 347.

It is held in Michigan that one may give away a part of his property if in so doing he has no intent to defraud present or future creditors, provided he has sufficient property left to pay his creditors.

**Bank v. Whittle**, 48 Mich. 1.

It is also held that mere inadequacy of consideration is "not a badge of fraud unless it is grossly so".

**Shay v. Wheeler**, 69 Mich. 254.

A "creditor", under the terms of this Act, is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

The rule in Michigan is that only existing creditors can take advantage of fraud in a conveyance.

**Bodine v. Simmons**, 38 Mich. 682.

**Cole v. Brown**, 114 Mich. 396.

Although it is held that a conveyance fraudulent as to existing creditors is fraudulent as to subsequent creditors as well.

**Herschfeldt v. George**, 6 Mich. 456.

A "debt" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent. A person who has been injured by another, although he has not made any claims for damages would be a creditor.

**Crossley v. Elworthy**, L. R. 12, Eq. 158.

This Act as drafted makes few changes in the law of any state. The chief benefit to be derived from the adoption of a uniform act on conveyances in fraud of creditors is that, if properly enforced, it will give a known certainty to the law which it does not now possess.

This question first came before the Conference in 1915 when its Committee on Commercial Law was instructed to prepare the draft of an act to make uniform the law relating to fraudulent conveyances. The first tentative draft was submitted in 1916, the second in 1917, and the third in 1918 when the Conference carefully considered the Act and finally adopted it and recommended it for enactment.

#### The Progress of Uniform Legislation.

This movement was officially organized in 1892 when in 1891 the Committee of the American Bar Association on Uniform State Laws

said: "There was a substantial agreement in view that the most urgent and immediate need of uniformity or unification was in matters affecting directly the business common to and co-extensive with the whole country, such as the enforcement of contracts, the validity, negotiability and construction of commercial paper, and the formalities of all legal instruments, and the proofs of their authenticity.

The early efforts were in the initial attempt made to limit action to those more annoying statutory differences which could be harmonized without in the least interfering with the autonomy of the States or the freedom of judicial interpretation. The American Bar Association furthered and stood sponsor for this organization, stating that it would further the creation of new Commissioners together with such additional incentive for renewed and united efforts not only in increasing the number of Commissioners but in aiding in the obtaining of uniform laws by legislation.

The danger was also pointed out that a systematic movement in the direction of uniformity may destroy the autonomy or at least the individuality of the States, that even a self-imposed uniformity tends to centralization and is opposed to the excellent principles of local self-government.

Twenty-five years ago, namely in the year 1891, the Chairman of the Committee on Uniform State Laws of the American Bar Association, in making inquiry of the then members of that important Committee, asked them as to the desirability of greater uniformity of the laws of the various States and Territories concerning such subjects as Marriage, Divorce, Descent, Wills, Probate, Insolvency, Notarial Certificates, Commercial Paper, Acknowledgment of Deeds.

At this time only six states had appointed Commissioners.

At the Conference in 1899 at Buffalo, the time was exclusively taken up with the question of uniformity of divorce laws in the various States. As a result of the agitation on this subject, the Uniform National Divorce Law was adopted as passed by the National Uniform Divorce Congress and was ratified by the National Conference of Commissioners in August 1907.

In 1899 the president of the National Conference was authorized to appoint fourteen standing committees on a corresponding number of subjects in connection with the general subject of uniformity of legislation. Never was there greater need than there was just then for the earnest and united effort on the part of the mercantile community to bring about good legislation. It was said that "because of bad legislation and the fear of worse the country was then in a condition of commercial paralysis".

While as citizens of a state of these United States we are all entitled to protection by the national and state governments, the enjoyment of life and liberty, with the right to acquire and possess property of

every kind and to pursue and obtain happiness and safety, subject to such restraints as the government may justly prescribe for the general good of the whole, it is found upon investigation that the domestic concerns of certain States, in many important respects, are subject to laws greatly differing in their effect upon the enjoyment of life and liberty.

The International High Commission, United States Section, Professor L. S. Lowe, Secretary-General and C. E. McGuire, an Assistant Secretary-General, have submitted for the information of the Conference this appreciation of the beneficent effect upon the business world produced by the studies and constructive recommendations of the Commissioners on Uniform State Laws, and they have even gone so far as to state "that our National Conference can perform a real international service in co-operating with the International High Commission".

#### Summary of Past Achievements.

It is found: (a) that every State, Territory and Federal Possession has recognized by appointment of Commissioners to this body, either by special statutory authority or by general, gubernatorial prerogative, the work of this organization; (b) that forty-eight States and the Territory of Alaska and all Federal Possessions have adopted as a part of their statutory law the Negotiable Instruments Law, the very first uniform act approved and recommended by this Conference; (c) that forty-one States, Territories and Federal Districts and possessions have adopted the Warehouse Receipts Act, the second measure approved by the Conference in the order of time; (d) that nineteen States and the Territory of Alaska have approved and adopted the Sales Act recommended by the Conference as its third measure in order of time; (e) that the succeeding acts approved and recommended by the Conference have been adopted by the States in varying numbers commensurate and proportionate to the length of time during which such acts have been in the category of statutes endorsed by the Conference, and the special character of the subject-matters dealt therein; and (f) that in fourteen different instances, during the recent sessions of the legislatures, various of the uniform acts promulgated by the Conference were adopted as laws by the States.

#### Judicial Co-operation and Approval.

When it is considered, as it is said, that there was added to the satisfaction exhibited on the part of the chief executives and the legislatures of the various states of the Union in the work of the Conference, the hearty approval of the various State Bar Associations through-

out the country, manifested in many substantial ways, including contributions to the general funds of the Conference and to the work involved in securing the passage of uniform acts by the respective state legislatures, the discriminatory praise of the Conference and its work by individuals in thesis and address, when there is added to these the very distinct and analytical commendation of the Courts voiced in no uncertain terms by members of the Bench in different parts of the country in the course of judicial opinions upon cases before them involving our uniform laws, all this demonstrates with reasonableness the success of the movement.

#### Michigan's Support of the Conference.

Under Act No. 46 of the Public Acts of 1913, the annual allowance for the actual expenses of the Commissioners and for the expenses incurred in drafting uniform laws was increased to \$500 out of which the sum of \$150 was paid in March 1915, the further sum of \$200 paid in July 1916 and the further sum of \$200 paid in June 1918, to the treasurer of the National Conference. It has no other means of income, but is compelled to rely upon voluntary contributions from the States, the State Bar Associations and the American Bar Association for its maintenance.

For the year ending August 1917 the total receipts of the National Conference were \$5,838.46 and the total disbursements were \$3,241.30, leaving a balance of \$2,597.16 in the treasury. There is always a balance in the treasury to anticipate future expenses of the Conference before the annual contributions, as a rule, are paid to the treasurer.

The real province of this Conference is not to formulate or propose new laws nor yet to attempt to make definite and certain the laws which already exist but simply and solely to mold into uniformity of provision those laws of the various states which have an interstate interest or application.

And your committee would recommend that a suitable contribution be made by the Association to assist in defraying the expenses of the Conference.

All of which is respectfully submitted.

GEORGE H. BATES,

WM. E. BROWN,

WM. K. CLUTE.

Members of the Committee on Uniform State Laws.

## REPORT OF THE COMMITTEE ON AMERICAN PROPAGANDA.

Propaganda by the enemy was so powerfully and widely used offensively in the Great War, that it is not strange that the Kalamazoo meeting of the Michigan State Bar Association in 1918 strongly urged its use for defensive purposes. Propaganda hostile to America was so threatening as to suggest propaganda for America as a counter offensive. The papers and banquet toasts at Kalamazoo were strongly patriotic, and led to the creation of this Committee charged:

"(1) To cause to be printed, published and circulated, within this state, documents of such character as will afford the public a better understanding of American history, institutions, principles and purposes, and

(2) To enlist and organize the members of the legal profession in this State to the end that they may assume and discharge the duty of acting as instructors to the uninformed touching the essential facts and principles of popular, constitutional government."

Two general sorts of activity were at once agreed upon, one by the printed, the other by the spoken word. Of these in their turn. First, it was planned to print and distribute to members of the bar, and through them to the public, timely discussions of our part in the war, and of questions of good citizenship and vigorous Americanism. It was felt that the bar had a peculiar fitness and responsibility for this service and therefore a peculiar duty to render it. The paper by Professor Wilgus on "The Tragedy of Thirteen Days in 1914", was expanded, and printed and circulated widely. Also an article by Margaret Sherwood, first printed in the Atlantic Monthly, and entitled "For Democracy", emphasizing that as our Revolutionary fathers were charged with the championship of the rights of man, so this age should teach the place in our social and political life of that other great and necessary virtue,—duty.

A third paper was just ready for the press when the armistice was signed. Its message was to urge that in this great crisis we be guided by Lincoln's example in the Civil War, that we refuse every offer of compromise and fight this contest clear through to a final settlement of the principle that might shall not triumph over right, that expediency and success do not make right. It was pointed out that Germany would probably seek some settlement before the dogs of war were turned loose upon her territory, and that unconditional surrender should be the terms of the peace, to be followed by a just settlement.

with eyes not on the satisfaction of present day feelings and ambitions, but on conditions that should make for lasting peace. The signing of the armistice seemed largely to put this discussion aside and publication was discontinued.

Plans were then made for publication of discussions of freedom of the seas, of free speech, of legal progressiveness, and of some virtues and faults of the Federal Constitution. For various causes it has not been possible to complete these plans, but it is possible, if the Association deems it wise, to carry them through the coming year.

The second line of activity was to be by the spoken word. The Committee prepared a list of lawyers of the State, well qualified to instruct and to influence in matters of intelligent and good citizenship, and the President of the Association sent out a circular letter with this list to every bar association in the State, with the urgent suggestion that the bar arrange meetings, to which the public should be invited, which should be addressed by some of the speakers available. The response left nothing to be desired in its unanimity. Every association responded in the same way—by compelling silence. Not a stamp was expended on replies. Later the women's clubs were circularized and several requests have been made by them for speakers for next year. It is believed that the clubs of these newly enfranchised citizens may offer useful opportunity for work of this sort, even if bar associations refuse to respond.

But what of the lawyers? This is another evidence, if more were needed, of the fact that lawyers act their parts, as individuals, but not by associated might. Wars cannot be won by this kind of fighting. It is believed many of the conquests of peace are equally impossible. The sort of propaganda the committee seeks, a propaganda for "right and vital teaching of true Americanism" has been so admirably described by Miss Sherwood in the article before referred to that we quote:—

"But, among the many voices, the one supremely important voice has, in the past, been lacking. I do not know anyone who has tried to teach the American public the essentials of our republican faith. Pole, Magyar, Czech, Turk, Lithuanian, Norwegian, Syrian, and innumerable others are gathered together here from the four corners of the earth to learn the meaning of the greatest experiment in democracy that the world has ever tried. Not only have we failed to help them in learning how to play their part in it, but we have left them, unprepared as they are for the measure of liberty which we enjoy, to become the prey of political bosses, of agitators exhorting from the cart-tail in regard to oppression, exploitation by wealth, and class wrongs, misleading their mediaeval minds into the belief

that something worse than old-world tryanny exists here; while no cart-tail whatsoever has revealed an equally ardent speaker, trying to make the masses understand what America stands for; what she is trying to achieve; what are the difficulties in her way? These new recruits have need of positive teaching to offset the negative doctrine of anarchist and I. W. W. leader, making them know that their whole duty is not to protest and fight, that they are citizens, members of the household, and, as such, responsible for its conduct; not angry and disaffected guests at an inn whose service does not satisfy. \* \* \* \*

It is indeed a supreme opportunity that the present crisis reveals; and a supreme duty confronts the citizens of this country, with its peculiar achievement in the theory and the practice of democracy. As our young men fight in the selds of France, for an ideal we should be fighting at home to bring into clearer vision of ourselves and others, the nature of that ideal \* \* \*. It is time that we all realize that we are passing through a crucial period like that of the French Revolution, only incomparably greater, and time that we awakened to a sense of what the great hour demands of us. Why are not our writers finding simple ways of setting forth for the eager, misled, uninstructed populace the principles upon which depends the permanence of our institutions? Why are not our lawyers, our scholars, our editors, men of sound and balanced minds and clear convictions, instead of lingering at desk or club, deriding agitators, out on commons, in parks, and at street-corners, expounding the nature of true Americanism, teaching the populace how to rule themselves? Our educational institutions and our higher professions have produced an extraordinarily large number of critics of our civilization, in proportion to the number of those ready to perform their duties therein."

It seems to be generally admitted that the individual lawyer is the equal of any man in readiness to do and die for country and the public good; in associated effort he is least zealous of all classes of men. It has grown tiresome to reiterate the achievements of medical organizations. At the other end of the scale are the bar associations. A beggarly handful take an interest in the important work of this State Association. How many of the strong men of the bar have ever been seen in its sessions? The American Bar Association has achieved great results in certain fields, and has had the support of some of our greatest lawyers, but how many more have wholly failed to have a part. There are in the state perhaps four, possibly five Lawyer's clubs or local associations that are active, but only one arranged for such a meeting as this Committee believes should be teaching citizen-

ship all over this State, and that was probably wholly due to the activity of the President of this Association. Your Committee does not conclude from this that the prospect is hopeless, only that it is difficult. Believing in the great need, and in the opportunity it offers for service, the Committee therefore,

*Recommends* that the Committee on American Propaganda be a permanent committee of the Association; that every effort be made to secure from the lawyers of the State the co-operation necessary to make its work useful and effective,, and that the officers of the Association be expected to render every assistance to its work.

Signed,

EDWIN C. GODDARD,  
HARRY A. SILSBEE,  
H. L. WILGUS,  
BURRITT HAMILTON.

#### REPORT OF HISTORICAL COMMITTEE.

The President and Members of the Michigan State Bar Association:

The Historical Committee of the Michigan State Bar Association for the year 1918-1919 submits herewith short sketches of members of the association who have deceased during the past year, viz: Lewis P. Coumans, of Bay City; Arch Bishop Eldredge, of Marquette; Edward R. Gilday, of Monroe; Jacob Kleinhans, of Grand Rapids, and Grove Henry Wolcott, of Jackson.

These sketches have been prepared from information obtained from an inspection of the memorials prepared and presented to the several Circuit Courts of the jurisdiction of the residence of the deceased members, and from friends and relatives. They are believed to be accurate in every respect, and while the prominence of each of the deceased members deserves a more extended statement, the committee has endeavored to limit the sketches to conform to the precedence of former years.

CLAUDIUS B. GRANT,  
BURRITT HAMILTON,  
GEORGE W. BATES,  
JOSEPH H. DUNNEBACKE, Chairman.

#### LEWIS P. COUMANS.

Judge Lewis P. Coumans, educated in the school of adversity, but making the most of the opportunities coming to him, became a lawyer of great force and ability. During his practice he took part

in a great deal of important litigation, his conduct gaining for him the respect and confidence alike of the bench and bar. As a public official he performed the functions of the office to which he was elected with great fidelity, energy and ability. Chosen first as an Assistant Prosecutor, he was later, on the death of the Hon. Chester L. Collins, appointed Circuit Judge of Bay county by Governor Woodbridge N. Ferris, a position which he filled with great credit. As an indication of his great worth it may be noted that at the election following his appointment he was defeated by his Republican opponent by only fifty-six votes. As a man Judge Coumans was kindly, courteous and honest; as a lawyer and judge fearless, energetic, industrious and able.

#### ARCH BISHOP ELDREDGE.

On the morning of September 9, 1918, Arch Bishop Eldredge, president of the Marquette County Bar Association, ex-president of the Michigan State Bar Association, and for 36 years one of the foremost lawyers of the Upper Peninsula, died suddenly at the Hotel Manhattan, New York. His remains were brought to Marquette and on September 12—the day when America's manhood was registering for duty in the great world war—his funeral services were held at St. Paul's Church in the city of his choice.

Mr. Eldredge was born at Fond du Lac, Wisconsin, May 12, 1853, and was thus a little over 65 years of age.

His father, Charles A. Eldredge was for many years a leading member of the Wisconsin bar and a prominent figure in the politics of that state. The younger Eldredge attended Princeton University for two years and was graduated with the class of 1875 at Racine College, at once entering the law office of his father, and being admitted to the bar two years later.

On June 22, 1882 he married Janie H. Rose, daughter of a prominent Fond du Lac lawyer, and about the same time removed to Ishpeming where he resided eight years.

In June, 1890, Mr. Eldredge was appointed general attorney for the Duluth, South Shore and Atlantic Railway Company and for the remaining 28 years of his life was closely identified with its management and development. In 1907 he became its vice president and in 1911 its president. Like many other really noble men Mr. Eldredge, while public spirited and always interested in public matters, never sought or held a public office. He was a staunch Democrat until 1896 when the Free Silver question prompted him to cast his lot with the Republican party in which political faith he remained to the end of his life.

The home life of Mr. Eldredge was ideal; while the nature of his business required him to travel a great deal nevertheless when at home his evenings were spent in the family circle. He was a student in every sense of the word, his reading taking on a wide range. He was a very companionable gentleman, fond of sports and games. He enjoyed the friendship and confidence of Lord Shaughnessy of the Canadian Pacific Railway, and his influence was not confined to the Upper Peninsula but extended to the entire Northwest.

#### EDWARD R. GILDAY.

Edward R. Gilday was for over 40 years an active and honorable member of the Monroe County Bar. Born in LaSalle, Monroe County, on October 24, 1848, he first attended a district school and later the Monroe High School from which he graduated in 1869. In the summer of 1872 he entered the law office of Joseph D. Ronan, and in the fall of 1873 the Law Department of the University of Michigan, graduating with the Class of 1874. In the fall of that year he was elected County Clerk of Monroe County which office he held two terms, following which he opened a law office in Monroe.

In 1880 he was elected Prosecuting Attorney, and in 1885 Mayor of Monroe, being re-elected for an additional term in each office. In January, 1914, Gov. Woodbridge N. Ferris appointed him to fill the vacancy caused by the death of C. A. Golden, Judge of the 38th Judicial Circuit. He was elected to the same office in November 1914, for the unexpired term, and again in April, 1917, for the full term of six years, but his death which occurred on August 26, 1918, intervened.

His integrity, his simplicity and his sturdy devotion to duty, won him marked distinction at the bar and on the bench, and endeared him in the hearts of the people of Monroe and all others who were privileged to know him. In politics Judge Gilday was a Democrat and in religion a Roman Catholic.

#### JACOB KLEINHANS.

Jacob Kleinhans was born in Belvidere, New Jersey, January 19, 1845. His law studies were carried on in the state of his birth, he being admitted to practice before the Supreme Court of New Jersey in 1867, at the age of twenty-two years. For more than fifty years he was a member of the Kent County Bar, his death occurring suddenly at his home in Grand Rapids on the 7th day of October, 1918. During these many years of a long, successful, and honorable career at the bar he was successfully a member of the law firm of Griswold, Eggleston &

Kleinhans,—Blair, Kingsley & Kleinhans,—Knappen & Kleinhans,—Knappen, Kleinhans & Knappen,—at the time of his death being the senior partner of the firm Kleinhans, Knappen & Uhl.

Mr. Kleinhans was essentially a lawyer. He had a scholar's capacity for the marshalling of facts and for logical arrangement, coupled with a terse, clear and forceable expression rarely equalled. He was a modest man, always courteous to both Court and counsel.

While taking an active interest in public matters he was not a seeker of political honors, never having held a public office. His entire life was devoted to his profession, and furnishes a distinguished example of what can be accomplished by a life so singly held to its purpose.

#### GROVE HENRY WOLCOTT.

Grove Henry Wolcott was born in Genesee County, New York, November 8, 1836, and died at Jackson, Michigan, on April 28, 1918, having attained an age of more than four score years.

In the year following his birth his parents removed to Michigan, settling on a farm in Onondaga Township, Ingham County, where the youth attended school. He also attended Albion College, which was then known as the Albion Wesleyan Seminary, and later qualified for the bar being admitted in Jackson County in the year 1862. He continued to be a resident of Jackson thenceforward, practicing his profession until the time of his death.

Mr. Wolcott was not only an active practitioner but took great interest in civic matters, being a person of strong convictions. Although taking a keen interest in politics he was not an office seeker in any sense of the word. He was private secretary to Governor Austin Blair during the period of the Civil War. He also held the office of Circuit Court Commissioner, and was a member of the House of Representatives of the State Legislature for the years 1891 and 1892.

Mr. Wolcott was also very fond of out door life as is evidenced by the fact that he was an expert rifleman having been at one time an active member of the State Militia, and as such having attained distinction upon the military ranges of the country.

Personally Mr. Wolcott was a genial and attractive friend and companion of manly qualities, and esteemed by all who knew him. He was a member of the First Congregational Church, President of the Jackson County Bar Association, and regarded by the bar and community generally as a conscientious member of the profession and a citizen of unblemished character.

## REPORT OF COMMITTEE ON MEMBERSHIP.

To the Officers and Members of the Michigan State Bar Association:

Your Committee on Membership has the honor to report the addition of twenty-four new members since the last annual meeting of the Association, a copy of the list of new members being attached hereto.

During the last year no special effort has been made for new memberships, in view of the duties assigned to the Bar by the Government, and the time taken up by such Government service.

Respectfully submitted,

SHERMAN T. HANLY, Chairman.

Clarence B. Randall, Ishpeming; Mr. Thomas Ward, Grand Rapids; John J. Smolenski, Grand Rapids; Erwin M. Treusch, Grand Rapids; Charles V. Hilding, Grand Rapids; Charles M. Owen, Grand Rapids; Frank T. Blake, Grand Rapids; Charles A. Watt, Grand Rapids; Lawrence W. Smith, Grand Rapids; C. Ray Hatten, Grand Rapids; George H. Klein, Detroit; Earl R. Stewart, Grand Rapids; Henry S. Slyfield, Detroit; Julius H. Amberg, Grand Rapids; Stewart Hanley, Detroit; Grover C. Grismore, Ann Arbor; Clare Retan, Lansing; Donald C. Osborne, Kalamazoo; John M. Alexander, Kalamazoo; Samuel D. Pepper, Lansing; Frank E. Whipple, Detroit; Frank A. Martin, Detroit; Patrick Boyle, Detroit; R. J. Cleland, Grand Rapids; W. E. Reardon, Midland.

## REPORT OF SECRETARY.

To the Officers and Members of the Michigan State Bar Association:

Gentlemen:—Owing to the fact that a large part of the time of the Secretary which has been devoted to Association work has been taken up by miscellaneous war work in the interest of the Association, and the further fact that the accomplishments of the Association during the past year have been largely through its committees, who will make their respective reports, I will only submit a short report, calling attention in a general way to the work of the Association.

As stated in the report last year, at the request of the Sub-Committee for War Service of the American Bar Association, circular letters were sent to all members of the Association, asking for information as to qualifications of each member who might devote his time to government service. While this information was all filed with the Sub-Committee of the American Bar Association, owing to the signing

of the armistice, soon after, nothing of material interest to the Association came of this work.

Again, in September last, the organization theretofore created through the Michigan State Bar Association to assist in answering questionnaires took up the work throughout the state and each individual member of the Association, I believe, is to be congratulated on the progress and thoroughness with which they again responded to the call of the Government in assisting registrants with their questionnaires.

So far as I can learn, every member of the Association devoted all the time which was asked of him in assisting men called to the service of their country in their personal and business affairs, freely and without compensation. Not only this, but from seventy-five to one hundred of the members of our Association themselves responded to the call of the Government, and now from day to day I am getting information that our good members are one by one returning to the practice of the law.

While owing to the duties demanded of the several members of the Association because of the war conditions up to and even after the armistice was signed, the Association, while perhaps not making much headway with new work, has, through the untiring efforts of its President, who has devoted a large amount of his time to the work, kept up to the high standard of its organization and it is in a very flourishing condition today.

The Committee on American Propaganda and Good Citizenship, of which Professor Edward C. Goddard is chairman, has given a large amount of time to the Association in preparing literature looking to the education of the public after the close of the war. Several of these publications, of which a number of thousand copies each were printed, have been sent out from the secretary's office, not only to the members of the Association, but to lawyers and laymen, generally, throughout the State of Michigan and elsewhere. Chief among this literature was the Professor Wilgus paper,—“The Tragedy of Thirteen Days in 1914”, and a paper, “For Democracy”, by Margaret Sherwood.

The Legislative Committee, during the present session of the Legislature, has accomplished very largely the duties asked of them at the last meeting of the Association in securing the repeal of the law limiting appeals, where less than \$500 is involved, to the supreme court, without the consent of that court; also in procuring the passage of the law providing for the revision and consolidation of the corporation law; also the passage of the law providing for the indexing of local and special acts and the law regarding declaration of rights. A detailed report of such legislation and other matters receiving attention will be contained in the report of the Committee on Legislation and Law Reform.

The work of the other committees as above stated will be contained in the reports of such committees, and I will not take the time of the Association in going over the same.

The expense of procuring a suitable portrait of Judge R. M. Montgomery has now been met and the portrait paid for.

During the past year the Membership Committee has added twenty-five new members to the Association list, and the Secretary has received notice of the withdrawal of only five, owing to removal from the state or discontinuing of practice; also of the death of only three of our members as thus far reported, one of which, we will all regret to know, was Arch B. Eldredge, a former president of the Association.

## FINANCES.

Balance cash in hands of Secretary at last annual meeting....	\$ 262.00
Amount collected from members for dues, 1919.....	1006.00

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1268.00

1919.

March 10, Remitted to Treasurer.....	660.00
April 16, Remitted to Treasurer .....	224.00
June 16, Remitted to Treasurer .....	144.00

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1028.00

Balance in hands of Secretary .....	\$240.00
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I thank the members of the Association,

Respectfully submitted,

HARRY A. SILSBEE,

Secretary.

## REPORT OF TREASURER.

WILLIAM E. BROWN, TREASURER, IN ACCOUNT WITH THE  
MICHIGAN STATE BAR ASSOCIATION.

To the President, Officers and Members of the Michigan State Bar  
Association:

I herewith submit my report of receipts and disbursements for the  
year ending June 20th, 1919:

## PROCEEDINGS OF

## RECEIPTS.

1918.

June 28th, 1918, To balance on hand .....	\$371.86
March 3rd, 1919, To dues received from Secretary.....	660.00
April 23rd, 1919, To dues received from Secretary .....	224.00
June 17th, 1919, To dues received from Secretary .....	144.00
<b>Total .....</b>	<b>\$1399.86.</b>

## DISBURSEMENTS.

1918.

July 3rd, By check No. 251, Gage Ptg Co. Ltd.....	\$20.25
July 5th, By check No. 252, Lawrence & Van Buren Ptg Co..	7.00
July 6th, By check No. 253, Ripley & Gray Ptg. Co.....	2.75
Aug. 14th, By check No. 254, Stockwell & McIntyre, stenog..	40.00
Aug. 14th, By check No. 255, International Publishing Co..	4.25
Mar. 13th, By check No. 256, Gage Printing Co.....	9.60
Mar. 13th, By check No. 257, Ripley & Gray Ptg. Co.....	12.75
Mar. 13th, By check No. 258, Allen & DeKleine.....	7.00
Mar. 13th, By check No. 259, H. A. Silsbee, salary for 1918..	200.00
Mar. 13th, By check No. 260, H. A. Silsbee, expenses.....	230.15
June 20th, 1919, Balance on hand.....	866.11

**Total .....** **\$1399.86**

Respectfully submitted,

WM. E. BROWN,

Treasurer.

To the Michigan State Bar Association:

Gentlemen:—Your auditing committee have checked over the treasurer's report and accounts and find the same correct and he accounts for the money which the secretary reports as having turned over to him.

Dated June 21st, 1919.

WALTER S. FOSTER,

W. J. LANDMAN,

V. E. VAN AMERINGEN.

## CONSTITUTION.

## ARTICLE I.—NAME.

The name of this Association shall be: "THE MICHIGAN STATE BAR ASSOCIATION".

## ARTICLE II.—\*OBJECTS.

The objects of this association shall be: To maintain the honor and dignity of the profession of the law; to increase its usefulness in promoting the due administration of justice; and to cultivate social intercourse among its members.

## ARTICLE III.—MEMBERSHIP.

Section 1. Members of the bar of Michigan in good standing and authorized to practice in the Courts of Michigan, and Judges of the United States Court and District Courts of Michigan, may become members of this Association.

Section 2. Each application for admission to membership must be endorsed by a member of this Association and sent to the Secretary. The Secretary shall submit applications to the Committee on Membership, which shall have full power to admit to membership.

Section 3. The annual dues shall be Two (\$2.00) Dollars payable to the Treasurer on the first day of January of each year. The Secretary shall, by mail, request payment of such dues. Members in arrears for one year after such request shall cease to be members without further action of the Association (as amended June 8th, 1904).

## ARTICLE V.—\*OFFICERS AND THEIR DUTIES.

Section 1. The officers of the Association shall be a President, Vice President, Secretary, Treasurer and Board of Directors, of fifteen members. (As amended June 6, 1894).

Section 2. The President shall act as Chairman of the Board of Directors, prepare an annual address, audit all bills and perform the duties usually incident to the office of President. In the event of his inability to perform the duties of the office, they shall devolve upon the Vice President.

Section 3. The Secretary shall act as Secretary of the Board of Directors, shall prepare an annual report and perform the duties usually

incident to the office of Secretary. The Secretary shall keep a full and complete record of the proceedings of the annual convention, and shall from time to time arrange same to such order that they may be bound and preserved. (As amended June 19th, 1903).

Section 4. The Treasurer shall prepare an annual report, and shall perform the duties usually incident to the office of Treasurer. His accounts shall be audited by a committee appointed by the President. The Treasurer shall also be required to furnish a bond in such amount as the Board of Directors may direct. (As amended June 19th, 1903).

Section 5. The Board of Directors shall consist of the President, Vice President, Secretary and twelve other members elected by the Association, one from each congressional district of the State. It shall prepare the program for the annual meeting. It shall have the entire management of the affairs of the Association subject to the Constitution and By-Laws. (As amended June 6, 1894).

#### ARTICLE V.—PLACE OF MEETING.

The Association shall at each convention determine the place of meeting for the next year. In event of its failure to do so, such place of meeting shall be determined by the Board of Directors. (As amended June 19th, 1903).

#### ARTICLE VI.—AMENDMENTS.

This constitution may be amended by a three-fourths (3-4) vote of the members present at any annual meeting.

BY-LAWS.

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## I.

## STANDING COMMITTEES.

(As amended June 8th, 1904.)

There shall be the following Standing Committee of the Association to be appointed by the President:

1. Executive, of three members.
2. Legislation and Law Reform, of five members.
3. Legal Education and Admission to the Bar of five members.
4. Grievances, of five members.
5. Membership, of three members.
6. Historical, of five members.

(The first committee shall be appointed from the place where the annual meeting is to be held.)

1. Executive Committee. It shall be the duty of this Committee, in conjunction with the President, to have the general charge of the affairs of the Association. They shall meet from time to time, as it may be deemed necessary by the Chairman, to determine upon the policy of the Association; the programme for its annual convention; arrange for said convention, and to prepare and submit at the meetings of the Association resolutions and suggestions relative to the general welfare of the Association. This Committee shall have such general powers and duties as is now possessed by the Board of Directors, only when such Board has failed to meet and take any action. (As amended June 19th, 1903).

2. Committee on Legislation and Law Reform. It shall be the duty of the Committee on Legislation and Law Reform:

(a) To procure, after the time has expired for the introduction of bills at each session of the legislature, copies of all bills introduced which effect in any way the law or its practice in the State; and to ascertain and judge of the needs or propriety of such proposed legislation. It shall take such steps as it shall deem necessary and proper to postpone the enactment or accomplish the defeat of any of such measures as they may consider unwise or injurious.

(b) To ascertain and report to the Association such legislation as it may consider necessary to carry into effect the suggestion contained in the reports of committees and papers read at any meetings,

and to prepare and present such legislation to the Associations in the form of bills or joint resolutions appended to its reports. It shall present to the Governor and Legislature in the form of memorial, such measures as are endorsed and recommended by the Association and in the name of the Association shall take such steps as may be proper to insure the enactment of such bills and joint resolutions.

(c) To observe the working of the judicial system of the State, collect information, examine projects for changes or reforms in the system, and recommend to the Association such action as it may deem expedient.

(d) To cause information to be given, between September 1 and November 1 of each year, through the public press or otherwise, that it at all times invites suggestions, formulated in writing, as to changes in the law relating to the administration of justice, which suggestions shall be mailed and addressed to the Secretary of the Association and endorsed "For the Committee on Legislation and Law Reform".

3. Committee on Legal Education and Admission to the Bar. It shall be the duty of the Committee on Legal Education and Admission to the Bar to take into consideration the subject of legal education and other requisites for admission to the bar and to recommend to the Association such changes as it may deem necessary to propose in the laws, systems and mode of legal education and of admission to the practice of the law in the State.

4. Committee on Grievances. It shall be the duty of the Committee to receive and investigate all charges of misconduct justifying suspension, or disbarment, which may be made to it, by responsible parties against any attorney of the State. If, upon investigation, probable cause to believe the charges to be true is found to exist, the committee shall cause proceedings to be taken to procure the disbarment of such attorney. The committee shall also investigate such other grievances affecting the profession of the law as may be brought to its attention, and recommend to this Association a remedy therefor.

5. Committee on Membership. It shall be the duty of this committee to pass upon applications, and shall have power to admit. (As amended August 12, 1902).

6. Historical Committee. It shall be the duty of the Historical Committee to have in charge the preparation and presentation of such papers of a biographical and historical value as relates to the history of the administration of justice in Michigan.

## II.

## ORDER OF BUSINESS.

The order of business at the annual meeting shall be as follows:

- (a) Reading of Minutes of Preceding Meeting.
- (b) Address of the President.
- (c) Report of Secretary.
- (d) Report of the Treasurer.
- (e) Report of the Board of Directors.
- (f) Report of the Committee on Legislation and Law Reform.
- (g) Report of the Committee on Legal Education and Admission to the Bar.
- (h) Miscellaneous Business.
- (i) Election of Officers.
- (j) Reports of Special Committees.

## III.

(The By-Laws were amended by striking out By-Law III, which designated the Michigan Law Journal as the official organ of the Association.) The Detroit Legal News is now the official organ of the Association. All addresses and papers read at the annual meeting shall be lodged with the Secretary.

## IV.

## AMENDMENT.

These By-Laws may be amended by a majority vote of the members present at any meeting.

## V.

The officers and committees of this Association shall be entitled to have paid, from the funds of the Association, their actual expenses incurred in the performance of their respective duties. (Added May 29, 1901).

## REPORT OF COMMITTEE ON LEGAL EDUCATION AND ADMISSION TO THE BAR, 1919.

The year ending July 1, 1919, so momentous in the history of the world, has been, as for most other institutions, an extraordinary year with the law schools of the country. In the last two preceding reports of this committee attention was drawn to the effect already produced and to the probable future consequences to legal education resulting from the war. Fortunately it is now possible to view this situation largely in retrospect. The prognostications as to the effect of the war upon the law schools of the country have been borne out largely by the events of the last few months. As was stated in the report for last year, law schools suffered greater proportionate losses in attendance than any other class of educational institutions in the country, and this largely because (1) law students, especially of course those in the schools requiring two or more years of college work for admission, were practically all of military age and thus subject to the Selective Service Act; and (2) because they were not exempt by reason of technical proficiency along lines which made it desirable for the country to put them into non-military service; and (3) because the traditional patriotic spirit of the bar led many of its prospective members who might have claimed exemption to enlist.

Never before have law schools suffered such a slashing to the very marrow of the student body. Even during our civil war the decrease in school attendance was relatively slight. A number of southern schools closed their doors permanently, but among the northern schools the loss in attendance, which curiously enough was greatest during the first year of the war, was only of about one fourth of the entire number of students. During the present war the loss in the better schools has ranged from something like 50 to 90 per cent of the total attendance. Our own State University law school had a total attendance of 66 students during the first semester, and even with those low figures was the second largest law school of the first rank in the country. Harvard had 69 students; Columbia 50, Chicago 48, Illinois 21, Cornell 26, and other schools suffered in very much the same measure.

Had the war continued for several years, the effect of these conditions upon the bar would have been most serious for it is obvious that the stream of new blood flowing from the schools to the bar would have been cut almost to the vanishing point, and the greatest loss would have been among the schools which because of their require-

ments for admission, methods of study, and effectiveness of the teaching staffs supply on the whole the better type of men to the bar. Fortunately the early termination of actual hostilities has turned the currents again in normal directions and it is to be hoped with normal volume in the near future. Even so, however, the supply of the bar has been seriously affected and this fact is one of the causes contributing to the higher compensation paid by lawyers to young graduates during the last two years.

An interesting report on legal education during the war prepared by Alfred Z. Reed, of the Carnegie Foundation published a few months ago, contains data concerning the conditions discussed in this report. That report shows that very few schools were able to carry on their work without serious cutting of the courses of instruction. The few mentioned by Mr. Reed as having carried on their work substantially in the regular way are the Universities of Michigan, Chicago, Columbia, Washington University of St. Louis, Harvard and Pennsylvania. This list takes no account of proprietary schools or those maintaining curricula of less than three years in length. Much ingenuity in arranging the courses and not a little sacrifice on the part of the professors in carrying extra work were needed to make it possible for even these schools to carry their burden during the troubled days of war.

Early in February students began returning to the law schools, released from service in the army and navy. Thus at our own state university 122 students began work in February, nearly all of whom had been in the service of their country in the army or navy, including the air branch of both of these services. They have come from nearly every quarter of the wide flung battle lines of the world, from France, Belgium, Italy and German prison camps. It may be said here they and others like them from the other schools have rendered splendid service to their country and not a few of them are bearing marks of their bravery for life. Not a few students gave their lives in the great cause. It is a record in which these men and all of us may well be proud.

In recognition of their courage and self sacrifice, the law schools of the country have done what they could to enable them to regain lost time by extending courses through the summer and by concentrating the work so as to save as many weeks as possible. These young men have returned to the school enriched by an experience in the great convulsion of the world which has enlarged their horizon, strengthened their determination and fired their ambition for bigger and better things. How long this feeling will endure and what practical results will be achieved by it remains to be seen. At present we can

only pay tribute to what they have done and what they hope to achieve for themselves and for the country.

During the year the State Board of Law Examiners has examined seventy-six applicants for admission to the bar, of which total it has issued certificates to sixty-four and has rejected twelve. It will be observed that war conditions are plainly reflected in the extent of the work of the Board. Under normal conditions, the Board should examine during the year from one hundred twenty-five to one hundred fifty and possibly more. It will be noted also that the percentage of those passing is rather high. This is due in a measure to the fact that the Board has been very generous in marking students who were either entering or returning from the service. A considerable number of men in the service who took the examination during the past year.

The Board investigated the application of fourteen non-resident attorneys and recommended granting of certificates to nine; rejected two; and three cases are still pending. In the matter of non-resident attorneys, the Board is doing an exceptionally good work. It frequently has applications come in bearing on the face of them very good indorsements, from men who are recommended by judges of the courts of records, and lawyers and sometimes preachers. But the Board never accepts these recommendations no matter how cordial they may be. It conducts an entirely independent investigation and never depends upon applicants' references. The Board has sources of information that enables it to get at the real character of the applicant, and many times after a thorough investigation has been made, it has refused certificates to men who filed most commendatory indorsements in the first instance, indorsements however which investigation proved were not justified by the facts.

During the past year there have been eighteen Notices of Intention filed with the Secretary of the Board, nine of which show that they have completed the preliminary or scholastic education required by law. Nine have failed to make such proof.

#### *Recommendations.*

- (1) The Secretary of the Board writes to our Committee as follows:

"There is a matter which I wish you would call to the attention of the Bar Association which is very annoying to the Board. I refer to so-called correspondence schools. Under our statute, as you know, study by correspondence method does not qualify the student to take the bar examination. I feel very certain that all of these correspondence schools are very familiar with the Michigan statute and yet they continue to take the money of numerous boys throughout the state and in many instances,

so I am told, represent that graduation from their institutions will qualify them for the bar examination. I have known of many cases where young men have spent more or less time, some of them as long as three years, pursuing their legal studies in this form and then apply for admission and of course the Board is not permitted to accept their application. The time and money of the young man is therefore entirely wasted so far as his getting admitted to the Bar in Michigan is concerned. I do not know what can be done to stop this pernicious practice."

Unquestionably the advertising and solicitation of business (for it is little else than that) of some correspondence schools has produced a great deal of confusion in the minds of prospective applicants for admission to the bar and in not a few cases is accompanied by actual fraud. There are a few correspondence schools doing honest work and doing it intelligently, but even these do not and cannot give a legal training which is even approximately equal in value to that given by the better residence law schools. The correspondence law training, even at its best, is not today an adequate preparation for admission to the bar. Indeed it falls very far short of that. No doubt the better schools afford a means whereby an intelligent person may get a bird's eye view of the law which will help him in business, but a correspondence course should not be taken as preparation for professional work at the bar. But besides these few good schools are several whose practices are piratical. Their main purpose is to sell their text books and to secure the enrollment fees. In many cases they falsely advertise that study in their schools is accepted as a basis for advanced standings in good residence schools. So far as this committee has been able to learn from examination of the catalogs of the law schools of the country not a single institution of that class gives credit or advanced standings for work, no matter how long continued, in correspondence law schools. The law school of our own state university does not recognize correspondence work for any purpose whatever, either upon examination or otherwise. It is hoped that the members of the bar will give publicity to this fact and thus help prevent the frauds and abuses referred to by the Secretary of the Board of Law Examiners.

(2) The statute providing for admission to the bar (Act 163 Public Acts 1913) provides in section five in substance that any person enrolled in any of the three law schools of the state at the time when the Act took effect may upon completing his law school work, at no matter what advance date in the future, be admitted to practice without examination. This proviso was equitable and politic at the time, but more than six years have elapsed since then and it is apparent that any one now seeking to take advantage of it would have no equities

and would not have such satisfactory legal education because of the long interruption in time as to justify his admission without examination. Your committee therefore recommends that this Association take the appropriate steps to secure the amendment of the Act by striking out the proviso in section five.

(3) Section five of the Act also provides: "That a student may enter any reputable law school without credits for a full high school course or its equivalent if he is deficient not more than twenty-five per cent of such high school course or its equivalent, and he makes up such deficiency before the beginning of the third year of his law course."

Your committee strongly recommends the repeal of this proviso likewise. If preparation means anything, it means training and the acquisition of knowledge *before* the beginning of the pursuit for which it is preparation. The folly of admitting a student with less than the required amount of information and training, which of course makes him weaker than the man with full training, and then saddling him with an extra heavy burden, the removal of these deficiencies, while he is studying law is apparent to any one. As a matter of fact, it leads to evasion and fraudulent violation of the law.

(4) As the law now stands in this state, there is no one place in this state in which are recorded the names of all of the members of the bar. Nor is there any officer of the state charged with the duty of keeping a record or complete roll of the bar. As a consequence it is impossible in many cases to determine whether a given man is an attorney licensed to practice or not. The vital importance of this in some cases must be apparent to all. The Grievance Committee of the Detroit Bar Association, and doubtless similar committees in other states, have been baffled frequently by this unfortunate condition in their work in determining the status of alleged lawyers whose practices or conduct have been officially complained of. Your committee recommends that the law be amended so as to provide for a complete and continuously up to date roll of the attorneys in this state.

In reference to recommendations 2, 3, and 4, your committee suggest that they be referred either to the Committee on Legislation or to special committees to be appointed, if the Association so prefers.

Respectfully submitted,

HENRY M. BATES, Chairman,  
CHARLES W. NICHOLS,  
MARSHALL M. UHL,  
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Lewis, Edwin C., Ford Bldg.	Detroit
Lewis, G. F.	Hilledale
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Lillie, Leo C.	Grand Haven
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Lucking, William, Ford Bldg.	Detroit
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McBride, Homer J.	Flint
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Martin, Frank A., 30 Buhl Block.	Detroit
Mason, Lynn B.	Kalamazoo
Mathews, Glenn D.	Ionia
Mathews, John T.	Ithaca
Mauer, Henry E., "L", 471 Philip Ave.	Detroit
Maynard, F. A.	Grand Rapids
Mechem, George W.	Battle Creek
Mechem, J. Leland	Battle Creek
Merriam, S. L., Legal Dept. P. M. Ry. Co.	Detroit
Merrick, Benj. P.	Grand Rapids
Michener, Earl C.	Adrian

Miller, A. E.	Marquette
Miller, Charles O.	Marshall
Miller, F. C.	Ionla
Miller, Frederick C.	Mt. Clemens
Miller, Sidney T., Penobscot Bldg.	Detroit
Millis, Wade, Ford Bldg.	Detroit
Mills, A. J.	Kalamazoo
Miltner, Henry M.	Lake City
Molnet, Edward J.	St. Johns
Monaghan, Geo. F., Majestic Bldg.	Detroit
Monning, Edwin R., 25 Buhl Block	Detroit
Montgomery, Stanley D.	Lansing
Moody, Paul B., Ford Bldg.	Detroit
Moore, Alex.	Port Huron
Moore, Geo. G., 52 Vanderbilt Ave.	New York
Moore, Geo. Wm., Campau Bldg.	Detroit
Moore, J. B.	Lansing
Moore, Wm. V., Wayne County Savings Bank Bldg.	Detroit
Morgan, Ira F., 1256 Penobscot Bldg.	Detroit
Morse, Allen B.	Ionla
Mosier, Carl D.	Dowagiac
Moulton, Luther V.	Grand Rapids
Mulford, Benj. F., Dime Bank Bldg.	Detroit
Murfin, J. O., Dime Bank Bldg.	Detroit
Murphy, Thos. F.	Morenci
Myers, John W.	Ithaca

## N.

Naevely, Henry E.	Saginaw
Neal, Max E.	Manistee
Nichols, Charles W.	Lansing
Nichols, George F.	Ionla
Nichols, James K.	Ionla
Norcross, George S.	Grand Rapids
Norris, Mark	Grand Rapids
North, Walter H.	Battle Creek
Nunnelev, B. V.	Mt. Clemens
Nutten, Wesley L., 1540 Penobscot Bldg.	Detroit

## O.

O'Brien, M. Hubert	Detroit
O'Brien, P. H.	Laurium
O'Brien, T. J.	Grand Rapids
O'Connor, Joseph J.	L'Anse
O'Hara, John J.	Menominee
O'Hara, John P., 1206 Majestic Bldg.	Detroit
O'Neill, James A.	Ironwood
Olivier, Charles O.	Hancock
Onen, B. J.	Battle Creek
Osborn, Donald C.	Kalamazoo
Osterhaus, Louis H.	Grand Haven
Ostrandor, Russell C.	Lansing
Overpack, Roy M.	Manistee
Owen, Charles M.	Grand Rapids
Oxtoby, James V., Dime Bank Bldg.	Detroit

## P.

Paddock, Lewis H., Penobscot Bldg.	Detroit
Pagelson, Daniel F.	Grand Haven
Pailthorp, C. J.	Petoskey
Paine, DeForest, Penobscot Bldg.	Detroit
Palmer, E. E.	Coldwater
Palmer, Harold	Coldwater
Palmer, L. C.	Stanton
Pardoe, George E.	Owosso
Parker, James S.	Flint
Parker, R. A., Moffat Bldg.	Detroit
Parker, W. J.	Corunna
Parkinson, J. A.	Jackson
Patchin, J. W.	Traverse City
Patterson, John H.	Pontiac

Pelham, H. M.	Iron Mountain
Pendleton, E. W., Dime Bank Bldg.	Detroit
Pengra, Otis	Sebewaing
Penny, A. W.	Cadillac
Pepper, Samuel D.	Lansing
Perkins, Willis B.	Grand Rapids
Perry, Charles W.	Clare
Perry, George B., Penobscot Bldg.	Detroit
Perry, Judson M., 619 Moffat Bldg.	Detroit
Person, Seymour H.	Lansing
Peter, James B.	Saginaw
Petermann, Albert E.	Calumet
Peters, Elmer N.	Charlotte
Phelps, Earl E., Court House.	Grand Rapids
Phillips, P. H.	Port Huron
Pierpont, Warren	Owosso
Pierson, Alfred P.	Escanaba
Porter, Edward W.	Bay City
Porter, Wm. H.	Marshall
Potter, Waldo T.	Ishpeming
Potter, W. W.	Hastings
Power, George S.	Iron River
Powers, James M.	Battle Creek
Powers, Walter S.	Battle Creek
Prentiss, Geo. H., Dime Bank Bldg.	Detroit
Prescott, John S.	Battle Creek
Price, Richard	Jackson
Primeau, Jos. H., 2524 Jefferson Ave.	Detroit
Pulver, Seth Q.	Owosso

## Q.

Quall, Robert J.	Ludington
Quinn, Frank Q.	Saginaw

## R.

Randall, Clarence B.	Ishpeming
Raudabaugh, Richard	Lansing
Reardon, W. E.	Midland
Reber, Harry D.	Fremont
Rees, Allen F.	Houghton
Reilly, C. S.	Cheboygan
Retan, Clare	Lansing
Rexford, D. C., Buhl Block.	Detroit
Reynolds, Carl H.	Lansing
Rhoads, Samuel H.	Lansing
Rice, Cyrus W.	Grand Rapids
Riggs, J. Culver	Hilledale
Riley, Thomas J.	Escanaba
Ritze, C. C.	Highland Park
Roberts, Clinton	Flint
Robertson, Charles L.	Adrian
Robinson, Carl A.	Marshall
Robinson, Deen L.	Houghton
Robinson, Thomas N.	Holland
Robson, Frank E., M. C. R. R. Bldg.	Detroit
Rockwell, K. P.	Pontiac
Rockwith, Frank A.	Saginaw
Rood, John R.	Ann Arbor
Rosenberg, Louis J., Ford Bldg.	Detroit
Ross, John Q.	Muskegon
Roesman, R. H.	Jackson
Rushton, H. J.	Escanaba
Russell, Franklin J.	Adrian
Russell, Henry, M. C. R. R. Depot.	Detroit
Ryall, Arthur H.	Escanaba
Ryall, Vincent D.	Bay City

## S.

Sabin, Leland H.	Battle Creek
Sample, George W.	Ann Arbor
Sanders, Joseph, 1140 Penobscot Bldg.	Detroit
Sauer, Alfred H.	Pigeon

Sayre, F. P.	Flushing
Sayres, William S., Jr., Federal Bldg.	Detroit
Schell, F. R.	Port Huron
Schulte, H. C.	Houghton
Schurtz, Shelby B.	Grand Rapids
Schuur, R. Paul	Kalamazoo
Searle, Kelly S.	Ithaca
Seegmiller, W. A.	Owosso
Seelye, W. S.	Lansing
Selby, Guy W.	Flint
Shaberg, Marvin J.	Kalamazoo
Sharpe, D. B.	Kalamazoo
Shaw, Frank E.	Grand Rapids
Sheldon, R. Skiff	Houghton
Shepherd, Frank	Cheboygan
Shepherd, James F.	Cheboygan
Sherwood, M. J.	Marquette
Shields, Edmund C.	Lansing
Shine, John W.	Sault Ste. Marie
Shipman, F. C., Union Trust Bldg.	Detroit
Silsbee, Harry A.	Lansing
Simon, Frank J.	Albion
Simonson, Alex B.	Sandusky
Sloan, J. T.	Centerville
Sloman, Adolph, Penobscot Bldg.	Detroit
Sloman, Edmund M., Penobscot Bldg.	Detroit
Styfield, Henry S., 2206 Dime Bank Bldg.	Detroit
Smedley, C. O.	Grand Rapids
Smedley, Harold H.	Grand Rapids
Smith, Clement	Hastings
Smith, Elmer G.	Atlanta
Smith, Frank Day, 306 Hammond Bldg.	Detroit
Smith, Hal H., Ford Bldg.	Detroit
Smith, Hiram R.	Rosecommon
Smith, J. M. C.	Charlotte
Smith, Lawrence W.	Grand Rapids
Smith, O. L.	Ithaca
Smith, R. W.	Manistee
Smith, Wallis Craig	Saginaw
Smith, Wm. Alden	Grand Rapids
Smith, W. M.	St. Johns
Smith, Wm. V.	Flint
Smolenski, John J.	Grand Rapids
Snow, A. Elwood	Saginaw
Snyder, C. H. W.	Tawas City
Snyder, Emil W., Majestic Bldg.	Detroit
Souter, H. Dale	Grand Rapids
Souter, Robert M.	Port Huron
Spalding, H. E., Dime Bank Bldg.	Detroit
Spears, W. J.	Vassar
Spencer, James R.	Iron Mountain
Spinney, John D.	Alma
Sprague, Victor D.	Cheboygan
Stace, Francis A.	Grand Rapids
Standart, Joseph, Farwell Bldg.	Detroit
Stanford, Geo. B.	Midland
Stearns, Clare H.	Kalamazoo
Steere, J. H.	Lansing
Stein, Christopher E., Police Court.	Detroit
Steinkohl, W. F.	Lansing
Stellwagen, A. C., Home Bank Bldg.	Detroit
Stevens, Mark W.	Flint
Stewart, Earl R.	Grand Rapids
Stewart, Gordon L.	Kalamazoo
Stewart, N. H.	Kalamazoo
Stewart, Shirley	Port Huron
Stivers, Frank A.	Ann Arbor
Stockwell, Elmer E.	Pontiac
Stoddard, John L.	Bay City
Stone, John G.	Houghton
Stone, John W.	Lansing
Stone, Ralph, Detroit Trust Co.	Detroit
Storkan, F. E.	Ironwood

Stratton, C. W.	St. Joseph
Strom, Torval E.	Escanaba
Sullivan, Frank P.	Sault Ste. Marie
Sullivan, James E.	Muskegon
Sullivan, Thomas	Hastings
Sunderland, E. R.	Ann Arbor
Swan, James, McGraw Bldg.	Detroit

## T.

Taggart, Ganson	Grand Rapids
Tanner, Elwyn	Flint
Taylor, Orla B., Butler Bldg.	Detroit
Taylor, Walter R.	Kalamazoo
Temple, Charles E.	Grand Rapids
Thomas, Charles E.	Battle Creek
Thomas, Harrie E.	Lansing
Thomas, John D.	Ann Arbor
Thomas, Wilbur F.	Constantine
Thompson, Charles D.	Bad Axe
Tilleon, John A.	Pontiac
Titus, Albion B.	Kalamazoo
Titus, Lincoln H.	Kalamazoo
Travis, DeHull N.	Flint
Travis, P. H.	Grand Rapids
Treusch, Erwin M.	Grand Rapids
Trucks, Ray	Baldwin
Turner, James, Union Trust Bldg.	Detroit
Turner, Raymond	Norway
Turner, Willard G., Jr.	Muskegon
Tuttle, Arthur J.	Detroit
Tweddle, J. J.	Detroit

## U.

Uhl, Marshall M.	Grand Rapids
Underwood, M. W.	Traverse City

## V.

VanAmeringen, V. E.	Ann Arbor
Van Benschoten, C. M.	Flint
Van Horn, S. H.	Kalamazoo
Vincent, Bird J.	Saginaw
Visscher, Raymond	Holland

## W.

Walbridge, H. E.	St. Johns
Walker, Myron H., Federal Bldg.	Grand Rapids
Walling, Eugene A., Dime Bank Bldg.	Detroit
Walsh, John J.	Ontonagon
Walsh, Joseph	Port Huron
Walsh, William R.	Port Huron
Walters, Henry C., Ford Bldg.	Detroit
Waples, H. J.	Ironwood
Ward, Charles E.	Grand Rapids
Ward, M. Thomas	Grand Rapids
Ware, Wm. E.	Battle Creek
Warner, David A.	Grand Rapids
Warner, Frank R.	Sault Ste. Marie
Warner, Fred L.	Belding
Warner, Glenn E.	Paw Paw
Warner, Wm. W.	Allegan
Warren, Benj. S., Ford Bldg.	Detroit
Warren, Charles B., Union Trust Bldg.	Detroit
Watkins, Roy M.	Grand Rapids
Watt, Charles A.	Grand Rapids
Wattles, I. N.	Kalamazoo
Wattles, Stephen H.	Kalamazoo
Weadock, Bernard F., 12 Woodward Ave.	Detroit
Weadock, George L.	Saginaw
Weadock, George W.	Saginaw
Weadock, Jerome J.	Saginaw

Weadock, John C., 14 Wall St.	New York
Weadock, Lewis J.	Bay City
Weadock, Paul, 1603 Ford Bldg.	Detroit
Weadock, Thos. A. E., Hammond Bldg.	Detroit
Weadock, Vincent	Saginaw
Wedge, Stanley E.	Coldwater
Webster, Clyde I., Majestic Bldg.	Detroit
Webster, Elmer R.	Pontiac
Weider, Herman A.	Houghton
Weimer, George V.	Kalamazoo
Weldon, Ara	Benton Harbor
Welsh, Charles F., Moffat Bldg.	Detroit
West, Robert J.	Deckerville
Westerman, Walter S.	Jackson
Weston, Frank S.	Kalamazoo
Wetmore, Fred C.	Cadillac
Whipple, Frank E., 311 Majestic Bldg.	Detroit
White, Charles E.	Niles
White, Milo A.	Fremont
Wicks, Kirk E.	Grand Rapids
Widdis, Albert	Tawas City
Wiest, Howard	Lansing
Wiley, Merlin	Sault Ste. Marie
Wilgus, H. L.	Ann Arbor
Wilkins, Charles T., Hammond Bldg.	Detroit
Williams, Arthur E.	Battle Creek
Williams, Benjamin	Jackson
Williams, Wm. B.	Lapeer
Williams, Wm. K., 18 Buhl Block.	Detroit
Wilson, Dwight L.	East Jordan
Wilson, Floyd A.	Saginaw
Wilson, Hugh E.	Grand Rapids
Wilson, J. Frank	Port Huron
Windsor, Herbert E.	Marshall
Wixson, Walter S.	Caro
Wolf, G. A.	Grand Rapids
Woodruff, Charles M., 475 E. Grand Blvd.	Detroit
Worcester, Alpheus A.	Big Rapids
Worch, Rudolph	Jackson
Wunsch, Henry, Moffat Bldg.	Detroit
Wykes, Roger Irving	Grand Rapids

## Y.

Yearnd, William H.	Cadillac
Yelland, Judd	Escanaba
Yerkes, C. C.	Northville
Yerkes, George B., Home Bank Bldg.	Detroit

## MEMBERS BY CITIES.

## ADRIAN.

(Lenawee County.)

Alexander, W. B.  
 Baker, James H.  
 Baldwin, Clark E.  
 Bird, John E.  
 Clark, Herbert R.  
 Hatt, B. L.  
 Jewitt, Henry R.  
 Joslin, Theodore M.  
 Michener, Earl C.  
 Robertson, Charles L.  
 Russell, Franklin J.

## ALBION.

(Calhoun County.)

Cooper, Adrian F.  
 Loud, Edward R.  
 Simon, Frank J.

## ALLEGAN.

(Allegan County.)

Cross, Orien S.  
 Warner, Wm. W.

## ALMA.

(Gratiot County.)

Green, James A.  
 Kress, James G.  
 Spinney, John D.

## ALPENA.

(Alpena County.)

Canfield, I. S.  
 Henry, Carl R.  
 Hinks, Frank T.

## ANN ARBOR.

(Washtenaw County.)

Aigler, Ralph W.  
 Bates, Henry M.  
 Bonisteel, Roscoe O.  
 Bunker, Robt. E.  
 Burke, George J.  
 Cavanagh, M. J.  
 DeVine, Frank B.  
 Durfee, Edgar N.  
 Fahrner, Jacob F.  
 Goddard, Edwin C.  
 Grismore, Grover C.  
 Haab, Otto E.  
 Holbrook, Evans  
 Hutchins, Harry B.  
 Kinne, E. D.  
 Lane, Victor H.

Rood, John R.  
 Sample, George W.  
 Stivers, Frank A.  
 Sunderland, E. R.  
 Thomas, John D.  
 Van Ameringen, V. E.  
 Wilgus, H. L.

## ATLANTA.

(Montmorency County.)

Smith, Elmer G.

## BAD AXE.

(Huron County.)

Clark, George M.  
 Thompson, Charles D.

## BALDWIN.

(Lake County.)

Trucks, Ray.

## BATTLE CREEK.

(Calhoun County.)

Allen, Maxwell B.  
 Balley, John W.  
 Beck, Ira A.  
 Cleary, James.  
 Davis, John C.  
 Ford, Albert N.  
 Goodrich, Cyrus J.  
 Hamilton, Burritt.  
 Hooper, Joseph L.  
 Jacobs, Henry F.  
 Kirschman, Robert H.  
 Knight, Willard A.  
 Letch, R. G.  
 Main, Verper W.  
 Mechem, George W.  
 Mechem, J. Leland.  
 North, Walter H.  
 Onen, B. J.  
 Powers, James M.  
 Powers, Walter S.  
 Prescott, John S.  
 Sabin, Leland H.  
 Thomas, Charles E.  
 Ware, William E.  
 Williams, Arthur B.

## BAY CITY.

(Bay County.)

Baker, Oscar W.  
 Black, Albert W.  
 Clarke, E. S.  
 Collins, W. A.

Duffy, James E.  
Gaffney, Hubert J.  
Hewitt, John C.  
Hitchcock, Charles W.  
Houghton, Samuel C.  
Kinnane, J. E.  
Lane, Robert H.  
McMillan, Archibald N.  
Porter, Edward W.  
Ryan, Vincent D.  
Stoddard, John L.  
Weadock, Lewis J.

**BELDING.**

(Ionia County.)

Hubbell, I. L.  
Warner, Fred L.

**BENTON HARBOR.**

(Berrien County.)

Gore, Victor M.  
Gray, Humphrey S.  
Weldon, Ara.

**BERRIEN SPRINGS.**

(Berrien County.)

Kavanagh, Charles H.

**BESSEMER.**

(Gogebic County.)

Baird, William S.  
Brogan, Byron M.

**BIG RAPIDS.**

(Mecosta County.)

Cogger, Albert B.  
Cogger, H. J.  
Dumon, John E.  
Worcester, Alpheus A.

**BOYNE CITY.**

(Charlevoix County.)

Harris, J. M.

**CADILLAC.**

(Wexford County.)

Lamb, Fred S.  
Penny, A. W.  
Wetmore, Fred C.  
Yearnd, William H.

**CALUMET.**

(Houghton County.)

Galbraith, Wm. J.  
Kerr, John D.  
Petermann, Albert E.

**CARO.**

(Tuscola County.)

Wixson, Walter S.

**CASSOPOLIS.**

(Cass County.)

Carr, John R.  
Cone, Chester E.  
Eby, U. S.  
Hayden, Asa K.  
Lyle, Clarence M.

**CENTERVILLE.**

(St. Joseph County.)

Sloan, J. T.

**CHARLEVOIX.**

(Charlevoix County.)

Lewis, R. L.

**CHARLOTTE.**

(Eaton County.)

Boyles, E. R.  
Dean, Frank A.  
McPeck, Russell R.  
Peters, Elmer N.  
Smith, J. M. C.

**CHEBOYGAN.**

(Cheboygan County.)

Cross, Wm. N.  
Reilley, C. S.  
Shepherd, Frank  
Shepherd, James F.  
Sprague, Victor D.

**CLARE.**

(Clare County.)

Perry, Charles W.

**COLDWATER.**

(Branch County.)

Barlow, H. H.  
Champion, Charles U.  
Palmer, Harold  
Palmer, E. E.  
Weage, Stanley E.

**CONSTANTINE.**

(St. Joseph County.)

Thomas, Wilbur F.

**CORUNNA.**

(Shiawassee County.)

Collins, Joseph H.  
McCurdy, John T.  
Parker, W. J.

**DECKERVILLE.**

(Sanilac County.)

West, Robert J.

**DELRAY.**

(Wayne County.)

Coulson, Charles L.

## DETROIT.

(Wayne County.)

- Altland, D. F., Penobscot Bldg.  
 Angell, Alexis C., Dime Bank Bldg.  
 Antisdell, John P., Union Trust Bldg.  
 Armstrong, Harold H., 1603 Ford Bldg.  
 Backus, Standish, Ford Bldg.  
 Baker, F. A., Whitney Opera House Bldg.  
 Barbour, Levi L., Buhl Block.  
 Barnes, Stuart C., Ford Bldg.  
 Bates, George W.  
 Beaumont, John W., Ford Bldg.  
 Beckenstein, Joseph R., 702 Majestic Bldg.  
 Behr, Fred A., 1026 Dime Bank Bldg.  
 Benjamin, Maxwell W., 720 Dime Bank Bldg.  
 Berns, Julius L., 573 Ketchener Ave.  
 Bissell, John H., 80 Griswold St.  
 Bland, J. Edward, Postoffice Bldg.  
 Bodman, Henry C., Union Trust Bldg.  
 Bogle, Henry C., Union Trust Bldg.  
 Bowen, Herbert, 33 Forest Ave.  
 Boyle, Patrick, 30 Buhl Block.  
 Braun, Max, 1140 Penobscot Bldg.  
 Broomfield, Archibald, 98 Glyn Court.  
 Bulkley, Harry C., Union Trust Bldg.  
 Butzel, Leo M., Ford Bldg.  
 Butzel, Henry M., Union Trust Bldg.  
 Cady, William B., Union Trust Bldg.  
 Callender, Sherman D., Dime Bank Bldg.  
 Campbell, Arthur D., Majestic Bldg.  
 Campbell, Chas. H., Union Trust Bldg.  
 Campbell, Henry M., Union Trust Bldg.  
 Carey, Archibald, 1603 Ford Bldg.  
 Carpenter, Wm. L., Ford Bldg.  
 Chilson, H. C., 1706 Dime Bank Bldg.  
 Choate, Ward N., Dime Bank Bldg.  
 Clark, Joseph H., Hammond Bldg.  
 Clark, Levert, Buhl Block.  
 Cook, Frank C., 1223 Majestic Bldg.  
 Corlies, John B., Ford Bldg.  
 Cornelius, Asher, 1018 Penobscot Bldg.  
 Coskey, Tobias, 64 Buhl Block.  
 Covert, Arthur H., 1127 Majestic Bldg.  
 Cowles, Israel T., Union Trust Bldg.  
 Cyrowski, August, 702 Penobscot Bldg.  
 Denby, Edwin, Moffat Bldg.  
 Dickinson, Philip S., Penobscot Bldg.  
 Doetsch, Felix A., Union Trust Bldg.  
 Donnelly, Edward, Ford Bldg.  
 Donovan, Percy J., Penobscot Bldg.  
 Douglas, Samuel T., Ford Bldg.  
 Duffield, Bethune, Union Trust Bldg.  
 Durfee, Edgar O., Probate Court.  
 Ehlman, James D., 1140 Penobscot Bldg.  
 Engand, Howell S., Dime Bank Bldg.  
 Esery, Carl V., Union Trust Bldg.  
 Finan, Carl B., Majestic Bldg.  
 Finkelstein, Max H., 1006 Hammond Bldg.  
 Fitzpatrick, W. G., Ford Bldg.  
 Foley, Daniel R., 1626 Penobscot Bldg.  
 Friedman, William, 1517 Dime Bank Bldg.  
 Fuller, Ernest M., 48 Buhl Block.  
 Fuss, Alexander, 375 Alger Ave.  
 Gage, Henry F., 402 Union Trust Bldg.  
 Garrett, Morris, Penobscot Bldg.  
 Goff, John H., Union Trust Bldg.  
 Goldenrich, N. H., 2119 Dime Bank Bldg.  
 Goodenough, L. W., Hammond Bldg.  
 Graves, Henry B., Hammond Bldg.  
 Grawn, Carl B., 1109 Ford Bldg.  
 Gray, Robert T., Ford Bldg.  
 Gray, Wm. J., Ford Bldg.  
 Groesbeck, A. J., Majestic Bldg.  
 Hailer, Fritz, 610 Breitmeier Bldg.  
 Hall, A. B., Hammond Bldg.  
 Hamblen, Joseph G., Jr., Union Trust Bldg.  
 Hanly, Stewart, 1604 Dime Bank Bldg.  
 Harward, Frederic T., Ford Bldg.  
 Heineman, D. E., 1706 Dime Bank Bldg.  
 Helfman, Harry, Ford Bldg.  
 Hicks, Arthur P., 918 Ford Bldg.  
 Hill, Sherman A., Union Trust Bldg.  
 Hosmer, George S., 51 Elliot St.  
 Hughes, Ben Chapoton, 702 Farwell Bldg.  
 January, W. L., Buhl Block.  
 Jones, Arthur, Hammond Bldg.  
 Kenna, James T., Peoples State Bank Bldg.  
 Klein, George H., 1301 Ford Bldg.  
 Kuhn, Franz C., 1018 Majestic Bldg.  
 Lacy, A. J., Moffat Bldg.  
 Ladd, S. W., Union Trust Bldg.  
 Lechner, Julius J., Dime Bank Bldg.  
 Leete, Thomas T., Jr., 1424 Ford Bldg.  
 Lewis, Charles E., Union Trust Bldg.  
 Lewis, Edwin C., Ford Bldg.  
 Lightner, Clarence A., Dime Bank Bldg.  
 Lockwood, Harry A., 1301 Ford Bldg.  
 Long, Thomas G., Ford Bldg.  
 Lucking, Alfred, Ford Bldg.  
 Lucking, William, Ford Bldg.  
 Lyster, Henry L., 1702 Ford Bldg.  
 McCorkle, Wm. F., Ford Bldg.  
 McCredie, William R., Dime Bank Bldg.  
 McDonald, Charles S., Hammond Bldg.  
 McDonald, James H., 1323 Woodward Ave.  
 McHugh, Philip A., Majestic Bldg.  
 McIntyre, Harold, 730 Penobscot Bldg.  
 MacKay, John D., Dime Bank Bldg.  
 McKee, Mark T., 937-9 Dime Bank Bldg.  
 McMillan, Phillip H., Union Trust Bldg.  
 McNamara, James, 2026 Dime Bank Bldg.  
 Maguire, Arthur D., Hammond Bldg.  
 Marsh, Pliny W., Free Press Bldg.  
 Martin, Frank A., 30 Buhl Block.  
 Mauer, Henry E., "L", 471 Philip Ave.  
 Merriam, S. L., Penobscot Bldg.  
 Miller, Sidney T., Penobscot Bldg.  
 Millis, Wade, 1403-7 Ford Bldg.  
 Monaghan, Geo. F., Ford Bldg.  
 Monning, Edwin R., 25 Buhl Block.  
 Moody, Paul B., Ford Bldg.  
 Moore, Geo. Wm., Campau Bldg.  
 Moore, Wm. V., Wayne Co. Sav. Bank Bldg.  
 Morgan, Ira F., 1256 Penobscot Bldg.  
 Mulford, Benj. F., Dime Bank Bldg.  
 Murfin, James O., Dime Bank Bldg.  
 Nutton, Wesley L., 1540 Penobscot Bldg.  
 O'Brien, M. Hubert, Ford Bldg.  
 O'Hara, John P., 1206 Majestic Bldg.  
 Oxtoby, James V., Dime Bank Bldg.  
 Paddock, Lewis H., Penobscot Bldg.  
 Falne, DeForest, Penobscot Bldg.  
 Parker, R. A., Moffat Block.  
 Pendleton, E. W., Dime Bank Bldg.  
 Perry, George E., Penobscot Bldg.  
 Perry, Judeon, 619 Moffat Block.

# THE MICHIGAN STATE BAR ASSOCIATION.

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Prentiss, Geo. H., Dime Bank Bldg.  
Primeau, Joseph H., Jr., 2524 Jefferson Ave.

Rexford, D. C., Buhl Block.  
Robson, Frank E., M. C. R. R. Bldg.  
Rosenberg, Louis J., Ford Bldg.  
Russell, Henry, M. C. R. R. Depot.  
Sanders, Joseph, 1140 Penobscot Bldg.  
Sayres, Wm. S., Jr., Federal Bldg.  
Shipman, F. C., Union Trust Bldg.  
Sloman, Adolph, Penobscot Bldg.  
Sloman, Edmund, Penobscot Bldg.  
Slyfield, Henry S., 2206 Dime Bank Bldg.

Smith, Frank Day, 306 Hammond Bldg.  
Smith, Hal H., Ford Bldg.  
Snyder, Emil W., Majestic Bldg.  
Spalding, H. E., Dime Bank Bldg.  
Standart, Joseph, 420 Farwell Bldg.  
Stein, Christopher E., Police Court.  
Stellwagen, A. C., Home Bank Bldg.  
Stone, Ralph, Detroit Trust Co. Bldg.  
Swan, James, McGraw Bldg.  
Taylor, Ora B., 13 Butler Bldg.  
Turner, James, Union Trust Bldg.  
Tuttle, Arthur J., Federal Bldg.  
Walling, Eugene A., 2011 Dime Bank Bldg.

Walters, Henry C., Ford Bldg.  
Warren, Benj. S., 1205 Ford Bldg.  
Warren, Charles B., Union Trust Co. Bldg.

Weadock, Bernard F., 12 Woodward Ave.

Weadock, Paul, 1603 Ford Bldg.  
Weadock, Thomas A. E., Hammond Bldg.

Webster, Clyde I., County Bldg.  
Welsh, Charles F., Moffat Bldg.  
Whipple, Frank E., 311 Majestic Bldg.  
Wilkins, Charles T., Hammond Bldg.  
Williams, William K., 18 Buhl Block.  
Woodruff, Charles M., 475 Grand Boulevard E.

Wunsch, Henry, Moffat Bldg.  
Yerkes, Geo. B., Home Bank Bldg.

## DOWAGIAC.

(Cass County.)

Hendryx, Coy M.  
Laing, E. Bruce.  
Mosier, Carl D.

## EAST JORDAN.

(Charlevoix County.)

Wilson, Dwight L.

## EAST TAWAS.

(Iosco County.)

French, Fremont F.

## ESCANABA.

(Delta County.)

Baker, James C.  
Pierson, Alfred P.  
Riley, Thomas J.  
Rushton, H. J.  
Ryall, Arthur H.  
Strom, Torval E.  
Yelland, Judd.

## FLINT.

(Genesee County.)

Aitkin, D. D.  
Baker, John F.  
Carton, John J.  
Cook, George W.  
Heimes, Daniel E.  
Lee, Ed. S.  
McBride, Homer J.  
McFarlan, James H.  
Parker, James S.  
Roberts, Clinton  
Selby, Guy W.  
Smith, William V.  
Stevens, Mark W.  
Tanner, Elwynn  
Travis, DeHull N.  
Van Benschoten, C. M.

## FLUSHING.

(Genesee County.)

Sayre, F. P.

## FREMONT.

(Newaygo County.)

Branstrom, Wm.  
Reber, Harry D.  
White, Milo A.

## GLADSTONE.

(Delta County.)

Empson, G. Raymond  
Jackson, Glenn W.

## GRAND HAVEN.

(Ottawa County.)

Danhof, James J.  
Lillie, Hugh E.  
Lillie, Leo C.  
Lillie, Walter I.  
Osterhaus, Louis H.  
Pagelson, Daniel F.

## GRAND LEDGE.

(Eaton County.)

Latting, Raymond A.

## GRAND RAPIDS.

(Kent County.)

Amberg, Julius H., Mich. Trust Bldg.  
Backus, Ella M., Gov't. Bldg.  
Blair, Chas. B., Mich. Trust Bldg.  
Blake, Frank I., Houseman Bldg.  
Boltwood, Lucius, Mich. Trust Bldg.  
Bradfield, Thomas P.  
Brooks, Walter H.  
Brown, George C.  
Butterfield, Roger C., Mich. Trust Bldg.  
Butterfield, Roger W., Mich. Trust Bldg.  
Campbell, Colin P., Widdicomb Bldg.  
Carmody, Martin H., Houseman Bldg.  
Carpenter, Eugene, Houseman Bldg.

Chase, Henry E.  
 Clapperton, George, Mich. Trust Bldg.  
 Cleland, R. J., Mich. Trust Bldg.  
 Clute, Win. K., Mich. Trust Bldg.  
 Corwin, B. M., Houseman Bldg.  
 Cunningham, Paul E., Houseman Bldg.  
 Dunham, John M.  
 Ellis, A. A., Houseman Bldg.  
 Ellis, Howard A., Houseman Bldg.  
 Geib, Fred P., Houseman Bldg.  
 Gillard, Joseph R.  
 Gleason, Clark H.  
 Hall, Clare J.  
 Harrington, Leon W., Mich. Trust Bldg.  
 Hatch, Reuben, Widdicomb Bldg.  
 Hatten, C. Rey.  
 Heald, Henry T., Mich. Trust Bldg.  
 Hext, Charles E., 4th National Bank Bldg.  
 Higbee, Clark E., City Hall  
 Hilding, Charles V., Nat. City Bank Bldg.  
 Hoffus, Cornelius  
 Jewell, Harry D.  
 Keeney, Willard F., Mich. Trust Bldg.  
 Knappen, Loyal E., Gov't. Bldg.  
 Landman, W. J., Houseman Bldg.  
 Lawrence, J. S.  
 Lillie, Charles H.  
 Lombard, James A., 4th National Bank Bldg.  
 McDonald, J. S., Court House  
 McPherson, Charles, Mich. Trust Bldg.  
 Maher, Edgar A., Aldrich Block  
 Mapes, Carl E.  
 Maynard, F. A.  
 Merrick, Benj. P., Mich. Trust Bldg.  
 Moulton, Luther V.  
 Norcross, Geo. S.  
 Norris, Mark, Mich. Trust Bldg.  
 O'Brien, T. J., Mich. Trust Bldg.  
 Owen, Charles M.  
 Perkins, Willis B., Court House  
 Phelps, Earl F., Court House  
 Rice, Cyrus W.  
 Schurtz, Shelby B.  
 Shaw, Frank E.  
 Smedley, C. O., Houseman Bldg.  
 Smedley, Harold H.  
 Smith, Lawrence W., Mich. Trust Bldg.  
 Smith, William Alden  
 Smolenski, John J., Com'l. Bank Bldg.  
 Souther, H. Dale  
 Stace, Francis A.  
 Stewart, Earl R.  
 Taggart, Ganson, Mich. Trust Bldg.  
 Temple, Chas. E., Mich. Trust Bldg.  
 Travis, P. H., Mich. Trust Bldg.  
 Treusch, Erwin M.  
 Uhl, Marshall M.  
 Walker, Myron H., Federal Bldg.  
 Ward, Charles E.  
 Ward, M. Thomas, Houseman Bldg.  
 Warner, David A., Mich. Trust Bldg.  
 Watkins, Roy M.  
 Watt, Chas. A., City Hall  
 Wicks, Kirk E., Houseman Bldg.  
 Wilson, Hugh E., Mich. Trust Bldg.  
 Wolf, G. A., Mich. Trust Bldg.  
 Wykes, Roger L., Mich. Trust Bldg.

## GRAYLING.

(Crawford County.)

Alexander, Geo. L.

## GREENVILLE.

(Montcalm County.)

Bowman, E. J.  
 Cook, Martin V.  
 Griswold, N. O.  
 Lewis, Milo

## HANCOCK.

(Houghton County.)

Hanchette, Charles D.  
 Olivier, Charles O.

## HART.

(Oceana County.)

Greene, Leslie E.

## HASTINGS:

(Barry County.)

Colgrove, P. T.  
 Potter, W. W.  
 Smith, Clement  
 Sullivan, Thomas

## HIGHLAND PARK.

(Wayne County.)

Ritze, C. C.

## HILLSDALE.

(Hillsdale County.)

Chase, Paul W.  
 Cornell, O. J.  
 Fitzpatrick, Merton  
 Frankhauser, W. H.  
 Grommon, W. D.  
 Guernsey, A. L.  
 Lewis, G. F.  
 Riggs, J. Culver

## HOLLAND.

(Ottawa County.)

Diekema, G. J.  
 McBride, Charles H.  
 Robinson, Thomas N.  
 Visscher, Raymond

## HOUGHTON.

(Houghton County.)

Legris, Louis W.  
 Rees, Allen F.  
 Robinson, Deen L.  
 Schulte, H. C.  
 Sheldon, Skiff R.  
 Stone, John G.  
 Weider, Herman A.

## HUDSON.

(Lenawee County.)

Chandler, Bert D.

## IONIA.

(Ionia County.)

Eldred, Foss O.

Gemuend, H. H.  
 Locke, Alfred R.  
 Mathews, Glenn D.  
 Miller, F. C.  
 Morse, Allen B.  
 Nichols, George E.  
 Nichols, James K.

## IRON MOUNTAIN.

(Dickinson County.)

Pelham, H. M.  
 Spencer, James R.

## IRON RIVER.

(Iron County.)

Byers, I. W.  
 McHale, John  
 Power, George S.

## IRONWOOD.

(Gogebic County.)

Bay, Harry K.  
 Driecoll, George O.  
 Fryburger, Raymond A.  
 Humphrey, Charles M.  
 O'Neill, James A.  
 Storkan, E. E.  
 Waples, H. J.

## ISHPEMING.

(Marquette County.)

Randall, Clarence B.  
 Berg, Fred H.  
 Clancey, Thomas  
 Kennedy, Michael J.  
 Potter, Waldo T.

## ITHACA.

(Griatiot Connty.)

Mathews, John T.  
 Myers, John W.  
 Searle, Kelly S.  
 Smith, O. L.

## JACKSON.

(Jackson County.)

Adams, James M.  
 Badgley, Forest C.  
 Barkworth, T. E.  
 Kirkby, Elmer  
 Parkinson, J. A.  
 Price, Richard  
 Rossman, R. H.  
 Westerman, Walter S.  
 Williams, Benjamin  
 Worth, Rudolph

## JONESVILLE.

(Hilledale County.)

Hawkins, Victor

## KALAMAZOO.

(Kalamazoo County.)

Alexander, John M.

Boudeman, Dallas  
 Briggs, Henry C.  
 Campbell, Robert I.  
 Carney, Claude S.  
 Chappell, Fred L.  
 Dibble, Charles L.  
 Earl, Otis A.  
 Faling, Glenn R.  
 Farrell, Charles H.  
 Fitzgerald, Wm. L.  
 Ford, Frank E.  
 Fox, William W.  
 Folz, Joseph H.  
 Frost, Alfred S.  
 Hopkins, George P.  
 Howard, Harry C.  
 Irish, E. M.  
 Jackson, St. Clair  
 Ketchum, Clyde W.  
 Kleinestuck, C. H.  
 Mason, Lynn B.  
 Mills, A. J.  
 Osborn, Donald C.  
 Schuur, R. Paul  
 Shaberg, Martin J.  
 Sharpe, D. B.  
 Stearns, Clare H.  
 Stewart, Gordon L.  
 Stewart, N. H.  
 Taylor, Walter R.  
 Titus, Albion B.  
 Titus, Lincoln H.  
 Van Horn, S. H.  
 Wattles, Stephen M.  
 Wattles, I. N.  
 Welmer, George V.  
 Weston, Frank S.

## LAKE CITY.

(Missaukee County.)

Engel, Albert J.  
 Miltner, Henry M.

## L'ANSE.

(Baraga County.)

Brennan, Hubert A.  
 O'Connor, Joseph J.

## LANSING.

(Ingham County.)

Black, Allan R.  
 Boice, J. Arthur  
 Brown, Wm. C.  
 Brown, J. Earle  
 Cahill, Edward  
 Carbaugh, W. J.  
 Collingwood, C. B.  
 Cummins, Alva M.  
 Dodge, Frank L.  
 Dunnebacke, Joseph H.  
 Eger, Paul G.  
 Fellows, Grant  
 Foster, Charles W.  
 Foster, Walter S.  
 Haight, Charles F.  
 Hayden, Charles Howe  
 Kelley, Patrick H.  
 Kelley, Samuel D.  
 Kelley, Spencer D.  
 McArthur, L. B.  
 McClellan, John

Montgomery, Stanley D.  
 Moore, Joseph B.  
 Nichols, Charles W.  
 Ostrander, Russell C.  
 Pepper, Samuel D.  
 Person, Seymour H.  
 Randabaugh, Richard  
 Retan, Clare, Att'y Gen'l. Office  
 Reynolds, Carl H.  
 Rhonde, S. H.  
 Seelye, W. S.  
 Shields, Edmund C.  
 Siskbee, Harry A.  
 Steere, J. H.  
 Steinkohl, Wm. F.  
 Stone, John W.  
 Thomas, Harrie E.  
 Wiest, Howard

**LAPEER.**

(Lapeer County.)

Brown, Wm. E.  
 Williams, Wm. B.

**LAURIUM.**

(Houghton County.)

O'Brien, P. H.

**LUDINGTON.**

(Mason County.)

Danaher, M. B.  
 Keiser, A. A.  
 Quail, Robert J.

**MANISTEE.**

(Manistee County.)

Belcher, Charles N.  
 Neal, Max E.  
 Overpack, Roy M.  
 Smith, R. W.

**MANISTIQUE.**

(Schoolcraft County.)

Hixson, Virgil L.  
 Johnson, Gottfried S.

**MARCELLUS.**

(Case County.)

Jones, Walter C.

**MARQUETTE.**

(Marquette County.)

Clark, Harlow A.  
 Eldredge, Ralph R.  
 Garvin, L. E.  
 Hatch, Harvey Burrigh  
 MacDonald, E. A.  
 Miller, A. E.  
 Sherwood, M. J.

**MARSHALL.**

(Calhoun County.)

Mackey, James W.  
 Miller, Charles O.

Porter, Wm. H.  
 Robinson, Carl A.  
 Windsor, Herbert E.

**MENOMINEE.**

(Menominee County.)

Doyle, M. J.  
 Haggerson, Fred H.  
 O'Hara, John J.

**MIDDLEVILLE.**

(Barry County.)

Jordan, Milton F.

**MIDLAND.**

(Midland County.)

Hyde, Ralph J.  
 Reardon, W. E.  
 Stanford, George B.

**MONROE.**

(Monroe County.)

Kolb, Clifton M.

**MORENCI.**

(Lenawee County.)

Bauman, H. Thane  
 Murphy, Thomas F.

**MT. CLEMENS.**

(Macomb County.)

Bowers, Varnum J.  
 Kelly, William T.  
 Miller, Frederick C.  
 Nunneley, B. V.

**MT. PLEASANT.**

(Isabella County.)

Dodds, Francis H.

**MUSKEGON.**

(Muskegon County.)

Anderson, John G.  
 Carpenter, William  
 Farmer, Edward C.  
 Jackson, Harry W.  
 McLaughlin, J. A.  
 Ross, John Q.  
 Sullivan, James E.  
 Turner, Willard G., Jr.

**NEGAUNEE.**

(Marquette County.)

Bell, Frank A.  
 Edgerton, J. M.

**NEWBERRY.**

(Luce County.)

Fead, Louis H.

## NILES.

(Berrien County.)

Bacon, N. H.  
Burns, Wilber N.  
Hillman, Archer J.  
White, Charles E.

## NORTHVILLE.

(Wayne County.)

Cochran, Fred J.  
Yerkes, C. C.

## NORWAY.

(Dickinson County.)

Brackett, A. F.  
Flannigan, R. C.  
Knight, J. C.  
Turner, Raymond

## ONTONAGON.

(Ontonagon County.)

Jones, John  
Walsh, John J.

## OVID.

(Clinton County.)

Hunter, George G.

## OWOSSO.

(Shiawassee County.)

Chandler, Albert L.  
Fardee, George E.  
Pierpont, Warren  
Pulver, Seth Q.  
Seegmiller, W. A.

## OXFORD.

(Oakland County.)

Jenkins, Frank E.

## PAW PAW.

(Van Buren County.)

Burhans, Earl L.  
Cavanaugh, Thos. J.  
Free, A. Lynn  
Warner, Glenn E.

## PETOSKEY.

(Emmet County.)

Halstead, B. H.  
Pailthrop, C. J.

## PIGEON.

(Huron County.)

Sauer, Alfred H.

## PONTIAC.

(Oakland County.)

Cambrey, Leman A.  
Doty, Frank L.

Friedenberg, J. A.  
Heitsch, Robert D.  
Lyuch, James H.  
McGee, Clinton  
Patterson, John H.  
Rockwell, K. P.  
Stockwell, Elmer E.  
Tilleon, John A.  
Webster, Elmer B.

## PORT HURON.

(St. Clair County.)

Benedict, C. L.  
Cady, B. D.  
Carrigan, Don R.  
Hughes, Isaac S.  
Jenks, W. L.  
Kane, Patrick H.  
Law, Eugene F.  
Moore, Alex.  
Phillips, P. H.  
Schell, F. R.  
Souter, Robert M.  
Stewart, Shirley  
Walsh, Joseph  
Walsh, William R.  
Wilson, J. Frank

## RICHMOND.

(Macomb County.)

David, Carl

## ROMEO.

(Macomb County.)

McKay, Henry J.

## ROSCOMMON.

(Roscommon County.)

Smith, Hiram R.

## ST. IGNACE.

(Mackinac County.)

Brown, Prentiss M.

## ST. JOHNS.

(Clinton County.)

Fehling, Edward W.  
Moinet, E. J.  
Smith, Wm. M.  
Walbridge, H. E.

## ST. JOSEPH.

(St. Joseph County.)

Banyon, Williard J.  
Evans, Fremont  
Stratton, C. W.

## SAGINAW.

(Saginaw County.)

Beach, E. L.  
Cook, Robert H.  
Crane, Floyd T.  
Crane, R. L.  
Crane, Wm. E.

Curry, Robert T.  
 Davis, Geo. W.  
 Davis, Mark T.  
 Grant, George  
 Henry, Guy D.  
 Kendrick, Raymond R.  
 Naegely, Henry E.  
 Peter, James B.  
 Quinn, Frank L.  
 Rockwith, Frank A.  
 Smith, Wallis Craig  
 Snow, A. Elwood  
 Vincent, Bird J.  
 Weadock, George L.  
 Weadock, George W.  
 Weadock, Jerome J.  
 Weadock, Vincent  
 Wilson, Floyd A.

## SANDUSKY.

(Sanilac County.)

Gates, Charles F.  
 McKenzie, Robert W.  
 Simonson, Alex. B.

## SAUGATUCK.

(Allegan County.)

Gardner, W. R.

## SAULT STE. MARIE.

(Chippewa County.)

Green, Thomas J.  
 Handy, Sherman T.  
 Hudson, Roberts P.  
 Kaltz, B. Frank  
 McDonald, Francis T.  
 Shine, John W.  
 Sullivan, Frank P.  
 Warner, Frank R.  
 Wiley, Merlin

## SEBEWAING.

(Huron County.)

Pengra, Otis

## SOUTH HAVEN.

(Van Buren County.)

Chandler, James E.  
 Cogshall, F. C.

## STANTON.

(Montcalm County.)

Palmer, L. C.

## STURGIS.

(St. Joseph County.)

Britton, D. M.

## TAWAS CITY.

(Iosco County.)

Flynn, Wm. H.  
 Hartingh, Nicholas C.  
 Snyder, C. H. W.  
 Widdle, Albert

## TRAVERSE CITY.

(Grand Traverse County.)

Alway, C. D.  
 Connine, Ward B.  
 Davis, H. C.  
 Duncan, J. O.  
 Gilbert, Parm C.  
 Patchin, J. W.  
 Tweddle, J. J.  
 Underwood, M. W.

## VASSAR.

(Tuscola County.)

Spears, W. J.

## WEST BRANCH.

(Ogemaw County.)

Harris, E. M.

## WILLIAMSTON.

(Ingham County.)

King, Clyde V.

## WOLVERINE.

(Cheboygan County.)

Barghoorn, C. D.

## YPSILANTI.

(Washtenaw County.)

Hatch, W. B.  
 Kirk, John P.

## OUTSIDE OF MICHIGAN.

Barlow, Burt E., 1422 F St., N. W.,  
 Washington, D. C.  
 Belden, William P., Rockefeller Bldg.,  
 Cleveland, Ohio.  
 Moore, George G., 52 Vanderbilt Ave.,  
 New York City, N. Y.  
 Weadock, John C., Wall St., New York  
 City.

## LIST OF DECEASED MEMBERS.

## WITH DATE OF DEATH.

- Adams, Oscar, Cheboygan. (See p. 114, Proceedings of 1903.)  
 Alexander, Chas. T., Detroit.  
 Alexander, Cassius, Grand Ledge, 1918.  
 Atherton, E. S., Durand.  
 Atkinson, John, Detroit, Aug. 14, 1902. (See p. 119, Proceedings of 1903.)  
 Atkinson, O'Brien J., Port Huron. (See p. 35, Proceedings of 1902.)  
 Babbitt, J. W., Ypsilanti. (See p. 35, Proceedings of 1902.)  
 Ball, Dan H., Marquette, 1917.  
 Ball, James E., Marquette. (See p. 148, Proceedings of 1914.)  
 Baker, Orlando H., Saginaw. (See p. —, Proceedings of 1912.)  
 Bancker, Enoch, Jackson, June 29, 1917.  
 Bean, Seth, Adrian. (See pp. 28 and 114. Proceedings of 1903.)  
 Beaver, Theo. G., Niles, Sept. 1, 1906. (See p. 68, Proceedings of 1910.)  
 Black, Hon. C. P., Lansing, Oct. 13, 1916. (Proceedings of 1917.)  
 Blair, Charles A., Lansing. (See p. —, Proceedings of 1912.)  
 Bope, Wm. T., Bad Axe, Feb. 22, 1919.  
 Brennan, Michael, Detroit, Dec. 11, 1905. (See p. 81, Proceedings of 1906.)  
 Brooks, John M., Saginaw, March 26, 1904. (See p. 76, Proceedings of 1904.)  
 Brooks, Melville D., Saginaw. (See p. 149, Proceedings of 1914.)  
 Brown, Benjamin J., Menominee, Jan. 9, 1905. (See p. 69, Proceedings of 1905.)  
 Brown, Henry B., Washington, D. C. (See Report of Historical Committee, 1913.)  
 Browne, Thos. W., Kalamazoo, July 9, 1910.  
 Bundy, McGeorge, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Butler, Jefferson, Detroit. (See p. —, Proceedings of 1914.)  
 Canfield, Hon. F. H., Detroit, March 9, 1916.  
 Carpenter, Henry B., Lansing, Aug. 5, 1905. (See p. 89, Proceedings of 1906.)  
 Chambers, F. H., Detroit. (See p. 35, Proceedings of 1902.)  
 Chamberlain, Robert M., Detroit, Aug. 7, 1917.  
 Chadbourne, T. L., Houghton, April 18, 1911. (See Report of Historical Committee, 1911.)  
 Champlin, John W., Grand Rapids, July 24, 1901. (See p. 110, Proceedings of 1903.)  
 Chatterton, Mason D., Lansing, Oct. 27, 1903. (See p. 73, Proceedings of 1904.)  
 Cheever, Noah Wood, Ann Arbor, July 20, 1905. (See p. 87, Proceedings of 1906.)  
 Clark, Frederick O., Marquette. (See p. 85, Proceedings of 1906.)  
 Clute, Lemuel, Ionia. (See p. 35, Proceedings of 1902.)  
 Cobb, George P., Bay City. (See Report of Historical Committee, 1913.)  
 Collins, Hon. Chester L., 1916. (See Proceedings of 1916.)  
 Conley, Edwin F., Detroit, April 20, 1902. (See p. 115, Proceedings of 1903.)  
 Cooley, Edgar A., Bay City. (See p. 149, Proceedings of 1914.)  
 Coolidge, O. W., Niles, 1918.  
 Constantine, S. M., Three Rivers, September, 1908.  
 Coumans, Lewis P., Bay City, April 20, 1918.  
 Crocker, Thomas M., Mt. Clemens. (See p. 114, Proceedings of 1903.)  
 Cruickshank, A. D., Charlevoix. (See p. 114, Proceedings of 1903.)  
 Cumiskey, John, Escanaba. (See Report Historical Committee, 1913.)  
 Cutcheon, S. M., Detroit, April 18, 1900. (See p. 121, Proceedings of 1903.)  
 Devereaux, James P., Saginaw, 1918.  
 Dickinson, Julian, Detroit, Jan. 11, 1916. (See Proceedings of 1916.)  
 Dooling, John C., St. Johns, Feb. 28, 1908. (See p. 68, Proceedings of 1910.)  
 Doran, Peter, Grand Rapids. (See p. —, Proceedings of 1912.)  
 Drury, Horton H., Grand Rapids, March 18, 1909. (See p. 69, Proceedings of 1910.)  
 Duffield, Henry M., Detroit. (See p. —, Proceedings of 1912.)  
 Durand, Geo. H., Flint. (See p. 114, Proceedings of 1903.)  
 Durand, L. T., Saginaw, Aug. 7, 1917.  
 Eddy, L. P., Grand Rapids. (See p. 35, Proceedings of 1902.)  
 Eldredge, J. B., Mt. Clemens. (See p. 35, Proceedings of 1902.)  
 Eldredge, A. B., Marquette, September, 1918.  
 Evans, W. T., Pentwater. (See p. 28, Proceedings of 1903.)  
 Felker, Henry J., Grand Rapids. (See p. 28, Proceedings of 1903.)  
 Fedewa, John H., St. Johns, Jan. 27, 1901. (See p. 121, Proceedings of 1903.)

- Fletcher, Hiram A., Grand Rapids, Aug. 15, 1899. (See p. 120, Proceedings of 1903.)  
 Fox, Wm. D., Detroit, May 1, 1911. (See Report of Historical Committee of 1911.)  
 Fowler, George B., Detroit, November 23, 1918.  
 Fowler, Frank L., Manistee (Chicago). (See p. 149, Proceedings of 1914.)  
 Fraser, Robert E., Detroit, May 9, 1908. (See p. 69, Proceedings of 1910.)  
 Fuller, C. C., Big Rapids, Dec. 23, 1906. (See p. 69, Proceedings of 1910.)  
 Fuller, Wm. D., Grand Rapids, March 20, 1908. (See p. 80, Proceedings of 1908.)  
 Fyfe, L. C., St. Joseph, Nov. 15, 1909. (See p. 69, Proceedings of 1910.)  
 Gage, Chauncey H., Saginaw, April 8, 1909. (See p. 70, Proceedings of 1910.)  
 Gates, Hon. Jasper C., Detroit, January 8, 1916.  
 Gilday, Edward, Monroe, 1918.  
 Gillett, Hon. H. M., Bay City, April 16, 1917. (Proceedings, 1917.)  
 Golden, C. A., Monroe.  
 Gordon, W. D., Midland.  
 Goos, Dwight, Grand Rapids, March 20, 1909. (See p. 70, Proceedings of 1910.)  
 Gott, Edward A., Detroit, May 9, 1904. (See p. 78, Proceedings of 1904.)  
 Graves, Benj. F., Detroit, March 3, 1906. (See p. 77, Proceedings of 1906.)  
 Graves, Frank P., St. Joseph, July 8, 1915. (Proceedings, 1917.)  
 Griffin, Levi Thos., Detroit, March 17, 1906. (See p. 83, Proceedings of 1906.)  
 Gundry, Clare M., Flint, April, 1917.  
 Haggerty, Wm. H., Grand Rapids, March 31, 1904. (See p. 77, Proceedings of 1904.)  
 Hall, Frank M., Hillsdale, Feb. 7, 1918.  
 Hall, Devere, Bay City. (See p. 150, Proceedings of 1914.)  
 Harmon, Henry A., Detroit. (See p. —, Proceedings of 1912.)  
 Harris, John M., Saginaw, Feb. 25, 1906. (See p. 88, Proceedings of 1906.)  
 Hawley, J. G., Detroit, Aug. 17, 1900. (See p. 120, Proceedings of 1903.)  
 Hayden, George, Ishpeming. (See p. 114, Proceedings of 1903.)  
 Hendee, Joseph B., Eaton Rapids, 1918.  
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 Kingsley, Willard, Grand Rapids. (See Report Historical Committee, 1913.)  
 Knight, Seth M., Mt. Clemens, July 11, 1910. (See p. 70, Proceedings of 1910.)  
 Knowlton, Prof. Jerome C., Ann Arbor, Dec. 1, 1916. (Proceedings, 1917.)  
 Landon, Geo. M., Monroe. (See Report Historical Committee, 1913.)  
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 Lillibridge, W. M., Detroit, Oct. 2, 1904. (See p. 67, Proceedings of 1905.)  
 Lockton, Andrew W., Battle Creek, April 5, 1904. (See p. 77, Proceedings of 1904.)  
 Long, Chas. D., Lansing. (See p. 35, Proceedings of 1902.)  
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 Maybury, Wm. C., Detroit, May 6, 1909. (See p. 70, Proceedings of 1910.)  
 Moore, Wm. A., Detroit, Sept. 26, 1906. (See p. 84, Proceedings of 1908.)  
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 McKnight, W. F., Grand Rapids, May 19, 1918.  
 McMath, J. W., Bay City. (See p. 35, Proceedings of 1902.)  
 Maynard, Horace S., Charlotte, Oct. 17, 1917.  
 Mead, F. D., Escanaba. (See p. 151, Proceedings of 1914.)  
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 Metzger, Henry F., Sault Ste. Marie, Jan. 9, 1905. (See p. 68, Proceedings of 1905.)  
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 Palmer, L. G., Big Rapids, Jan. 4, 1911. (See Report of Historical Committee, 1911.)  
 Patton, John, Grand Rapids, May 24, 1907. (See p. 85, Proceedings of 1908.)

- Patterson, John C., Marshall, May 24, 1910. (See p. 71, Proceedings of 1910.)  
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 Smith, Francis, Muskegon. (See p. 114, Proceedings of 1903.)  
 Smith, Henry C., Adrian. (See p. —, Proceedings of 1912.)  
 Smith, James Crowlett, Detroit, Sept. 7, 1917.  
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 Wilson, Hon. Thos. A., Jackson.  
 Wilson, Charles M., Grand Rapids, June 20, 1917. (Proceedings, 1917.)  
 Wolcott, Alfred, Grand Rapids, March 8, 1908. (See p. 92, Proceedings of 1908.)  
 Wolcott, L. W., Grand Rapids, March 29, 1909. (See p. 72, Proceedings 1909.)  
 Wolcott, Grove H., Jackson, April 1, 1918.  
 Young, H. O., Ishpeming.









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